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BILL 97

Government Bill

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Legislative Assembly

The Credit Unions Act, 1976

THE HON. S. B. HANDLEMAN
Minister of Consumer and Commercial Relations



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Explanatory Note

The Bill re-enacts *The Credit Unions Act* for the purpose of making the law governing the incorporation and regulation of credit unions and credit union leagues complete and self-contained, as recommended by the Select Committee on Company Law.

Principal changes include the following:

1. The provisions of *The Business Corporations Act* are in most respects adopted for application to credit unions and leagues.

2. All by-laws of credit unions require approval.

3. Provision is made for branches and branch meetings.

4. Corporate members are recognized and capacity for members who are minors to deal directly.

5. Second mortgage loans and term deposits are authorized.

6. Investment provisions are fully set out.

7. The Ontario Share and Deposit Insurance Corporation is established, financed by assessments from credit unions, to provide deposit insurance with incidental powers for annual examinations.

BILL 97 **1976**

The Credit Unions Act, 1976

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

INTERPRETATION

1.—(1) In this Act, Interpretation

(*a*) "articles of incorporation" or "articles" means the original or restated articles of incorporation, articles of amalgamation, articles of amendment, memorandum of association, a special Act or other instrument by which a credit union is incorporated and includes any amendment thereto;

(*b*) "auditor" means a person who is a public accountant licensed under *The Public Accountancy Act*; R.S.O. 1970, c. 373

(*c*) "by-law" means a by-law approved under this Act, and includes any amendment or revocation of a by-law approved under this Act;

(*d*) "certificate of incorporation" includes the memorandum of association, a special Act or any other instrument by which a credit union is incorporated;

(*e*) "court" means the Supreme Court of Ontario;

(*f*) "credit union" means a corporation incorporated as a credit union or caisse populaire under this Act or a predecessor of this Act;

(*g*) "debt obligation" means a bond, debenture, note or other similar obligation of a corporation, whether secured or unsecured;

(*h*) "deposit" includes all sums placed on deposit with a credit union and includes "term deposits"

in respect of which a specified rate of interest is payable only if the deposit is not withdrawn for a fixed term;

(*i*) "Director" means the Director of Credit Unions of the Ministry of Consumer and Commercial Relations;

(*j*) "financial statement" means a financial statement referred to in section 71;

(*k*) "league" means a corporation incorporated as a credit union league under this Act or a predecessor of this Act;

(*l*) "member" means a person who is a member or enrolled as a member of a credit union under this Act, the articles and the by-laws of the credit union governing membership;

(*m*) "Minister" means the Minister of Consumer and Commercial Relations;

(*n*) "officer" means the president, any vice-president, treasurer, secretary, manager, assistant treasurer, assistant secretary, assistant manager and any employee who has authority to approve loans and any employee of a credit union who reports directly to the board of directors;

(*o*) "personal representative" where used with reference to holding shares or having deposits in that capacity means an executor, administrator, guardian, tutor, trustee, receiver or liquidator, or the committee of or curator to a mentally incompetent person;

(*p*) "regulations" means the regulations made under this Act;

(*q*) "related person", where used to indicate a relationship with any person, means any spouse, son or daughter of that person, or any relative of that person or of his spouse, son or daughter who has the same home as that person;

(*r*) "special resolution" means a resolution that is not effective until it is passed by the board of directors of the credit union and confirmed, with or without variations, by at least two-thirds of the votes cast at a general meeting of the members of the credit union duly called for that purpose;

(*s*) "Superintendent" means the Superintendent of Insurance.

(2) In determining the number of members of a credit union for the purposes of this Act, two or more persons holding the same share or shares jointly shall be considered as one member. Joint shares

2.—(1) There shall be a Director of Credit Unions appointed by the Lieutenant Governor in Council, who shall exercise the powers and shall perform the duties conferred or imposed on him by this Act or the regulations under the supervision of the Superintendent. Director of Credit Unions

(2) *The Corporations Act* does not apply to credit unions or credit union leagues. Application of R.S.O. 1970, c. 89

INCORPORATION

3.—(1) A credit union may be incorporated under this Act by articles of incorporation for the objects stated in section 11 and the incorporation is subject to the approval of the Minister. Incorporation

(2) Any number of natural persons, not fewer than twenty, who are of the age of eighteen years or more, may apply to be incorporated as a credit union by signing and delivering to the Minister, in duplicate, articles of incorporation in the form prescribed by the regulations together with two copies of the proposed by-laws of the credit union. Application

(3) The articles of incorporation shall set out: Articles of incorporation

1. The name of the credit union to be incorporated.

2. The place in Ontario where the head office of the credit union is to be located giving the municipality and the county or district or where the head office is to be located in a territory without municipal organization, the geographic township and district, if any.

3. The name of each of the incorporators and residence address of each.

4. The number of directors of the credit union, which shall be not fewer than five, and the name and residence address, giving the street and number, if any, of each person who is a first director of the credit union.

5. Any other matter required by this Act or the regulations to be set out in the articles.

Idem

(4) The articles may set out any provision that is authorized by this Act to be set out in the articles or that could be the subject of a by-law of the credit union.

Affidavits

(5) The signature of each incorporator and each first director and the fact that each incorporator who is a natural person and each first director is of the age of eighteen years or more shall be verified by affidavit.

Director may direct amendment of by-laws

(6) The proposed by-laws shall be in accordance with section 16 and if the Director finds the proposed by-laws repugnant to this Act he may direct an amendment before the application is proceeded with.

Report to Minister

(7) The Director shall inquire into the circumstances, sufficiency and regularity of the articles of incorporation and accompanying proposed by-laws delivered to the Minister and may require any matter to be verified under oath and shall report thereon to the Minister.

Reasons

(8) Where the Director reports to the Minister that the articles of incorporation should not be filed, his report shall include the reasons therefor and a copy of his report shall be delivered to the incorporators.

Submissions to Minister

(9) The incorporators may, within fifteen days after receiving the report and reasons of the Director under subsection 8, make written submissions to the Minister in respect thereof.

Issuance of certificate of incorporation

(10) After considering the report of the Director and the submissions, if any, of the incorporators, the Minister may, in his discretion and after all prescribed fees have been paid,

(*a*) endorse on the duplicate of the articles the words "Filed" and the day, month and year of the filing thereof;

(*b*) file one of the duplicates in his office; and

(*c*) issue to the incorporators or their agent a certificate of incorporation to which he shall affix the other duplicate.

Effect of incorporation

(11) A credit union comes into existence upon the date set forth in its certificate of incorporation and the certificate of incorporation, the articles of incorporation, and the by-laws

of the credit union, together with this Act, constitute the charter of the credit union.

(12) A certificate of incorporation is conclusive proof that all conditions precedent required to be performed by the incorporators have been complied with and that the credit union has been incorporated under this Act, except in a proceeding under section 122. Notice

4.—(1) No credit union shall be incorporated under a name identical with that of any other credit union or of any corporation or organization or under a name so nearly resembling that of any other credit union, corporation or organization as, in the opinion of the Minister, to be likely to deceive or under a name that may otherwise, in the opinion of the Minister, be objectionable on public grounds. Name

(2) If a credit union, through inadvertence or otherwise, has acquired a name contrary to subsection 1, the Minister may, after he has given the credit union an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the credit union to the name specified in the certificate, and upon issuance of the certificate of amendment, the articles are amended accordingly. Change if objectionable

5.—(1) The name of a credit union shall include the words "credit union" or "caisse populaire" as part thereof. Use of "credit union"

(2) The name of the credit union shall have the words "Limited" or "Limitee", or "incorporated" or "incorporée", or its corresponding abbreviation "Ltd", "Ltee", or "Inc" as the last word thereof. Use of "Limited"

6. Notwithstanding section 5, a credit union may use its name in such form and in such language as the articles provide and as the Minister approves. Use of name

7. A change of name of a credit union does not affect its rights and obligations. Effect of change of name

8. Any person, not being a credit union to which this Act applies, who carries on business under a name or title in which the words "credit union" or "caisse populaire" are used is guilty of an offence. Use of words "credit union"

9.—(1) A credit union shall have a seal, which shall be adopted and may be changed by resolution of the directors. Seal

(2) The name of the credit union shall appear in legible characters on the seal. Idem

Head office

10.—(1) A credit union shall at all times have its head office in Ontario at the place where its articles provide.

Change

(2) Subject to the approval of the Minister, a credit union may by by-law change the geographic location of its head office to another place in Ontario if such change would better serve its purpose and objects.

Objects of credit unions

11.—(1) The articles of a credit union shall state its object and purpose as being the promotion of co-operative enterprise, the facilitating of the accumulation of savings and the creation of a source of credit for its members at conscionable rates of interest and the provision of full financial services for its members and every credit union shall be deemed to have such objects in its articles.

Ancillary powers

(2) For the purpose of carrying out its objects, subject to the other provisions of this Act, the regulations, the articles and the by-laws of the credit union, every credit union has power as incidental and ancillary to its objects,

1. to receive moneys on deposit from members and as payment for shares;

2. to make loans to members, with or without security;

3. to make loans to other credit unions;

4. to deposit moneys with, invest in shares of, or make loans to, any league;

5. where authorized to do so by special resolution, to make donations and gifts out of the surplus income or any undivided earnings for the purpose of advancing the interest of the credit union or of credit unions generally and for charitable purposes;

6. to purchase, lease, or take in exchange, hire or otherwise acquire any personal property and any right or privilege the credit union considers necessary or convenient for the purpose of the credit union;

7. to invest funds of the credit union;

8. where authorized to do so by a special resolution, to sell, lease, exchange or otherwise dispose of all or substantially all the property of the credit union for such consideration as the credit union considers appropriate;

9. to construct, maintain and alter any buildings or works necessary for its objects;

10. where authorized by a by-law to acquire by purchase, lease or otherwise and hold any real property or interest therein necessary for its actual use and occupation or for carrying on its undertaking, and, when no longer necessary therefor, to sell, alienate or convey it;

11. to take, hold, alienate, realize on, or otherwise dispose of any real or personal property that has been mortgaged or pledged to the credit union by way of security for, or conveyed to it in satisfaction of loans made in the course of business or otherwise purchased for the purpose of avoiding a loss to the credit union;

12. to draw, make, accept, endorse, execute, discount and issue promissory notes, bills of exchange, bills of lading, warrants and other negotiable or transferable instruments;

13. subject to such conditions as are prescribed by the regulations, to establish and operate branch offices to provide credit union services;

14. to pay all costs and expenses of, or incidental to, the incorporation and organization of the credit union;

15. to establish and support or aid in the establishment and support of or the subscription to, associations, institutions, funds or trusts for the benefit of employees or former employees of the credit union or its predecessors, or the dependants or connections of such employees or former employees, and grant pensions and allowances, and make payments towards insurance or for any object similar to those set forth in this paragraph, and where authorized to do so by a special resolution, to subscribe or guarantee money for charitable, benevolent, educational or religious objects or for any exhibition or for any public, general or useful objects;

16. to adopt means of making known the services of the credit union, and in particular by advertising in the press, by circulars, or otherwise by purchase and exhibition of works of art or interest, by publication of books and periodicals or by granting prizes, rewards and making donations;

17. to deposit money in chartered banks, the Province of Ontario Savings Office, or loan companies and trust companies registered under *The Loan and Trust Corporations Act*; R.S.O. 1970, c. 254

18. to contract and sue and be sued in the corporate name;

19. to purchase group insurance for its members;

20. to perform any of the things authorized by this section as principal or agent and either alone or in conjunction with others;

21. to perform all such other things as are incidental or conducive to the attainment of the objects and the exercise of the powers of the credit union;

22. to have perpetual succession;

23. to carry on any other business capable of being conveniently carried on in connection with its business or likely to enhance the value of or make profitable any of its property or rights;

24. to acquire and hold shares in any other company having objects altogether or in part similar to those of the credit union or carrying on any business capable of being conducted so as to benefit the credit union;

25. to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with the property of the credit union in the ordinary course of its business;

26. to provide safekeeping facilities and services for personal property;

27. to provide services for the collection and payment of moneys from and on behalf of its members;

28. to provide such programs and services for its members as in the opinion of the board of directors may assist the members to meet their financial or social needs;

29. subject to the approval of the Director, to accept custody of assets for specific purposes or under specific terms and conditions and to act as an agent

to carry out such purposes, such purposes to include, but not be restricted to, the custody of funds deposited under registered retirement savings plans and registered home ownership savings plans.

(3) Any of the powers set out in subsection 2 may be withheld or limited by the articles. Limitation of powers

(4) Every credit union may exercise its powers beyond the boundaries of Ontario to the extent to which the laws in force where the powers are sought to be exercised permit, and may accept extra-provincial powers and rights. Power to act outside Ontario

LEAGUES

12.—(1) Ten or more credit unions may be incorporated as a league for the object and purpose of, Leagues

(*a*) protecting and advancing the credit unions that are members of the league;

(*b*) providing encouragement and assisting in programs and activities contributing to the growth and development of member credit unions;

(*c*) conducting training programs for the general improvement of managers, employees and members of the board of directors and committees of member credit unions;

(*d*) arranging for pension plans, group bonding and group insurance of all kinds for the officers, employees and members of credit unions and assisting in repayment of loans made by credit unions to their members;

(*e*) receiving moneys from their member credit unions either as payment on shares or as deposits;

(*f*) making loans to credit unions that are members of the league;

(*g*) providing services to or for its member credit unions that, in the opinion of the directors of the league, are incidental or conducive to the sound operation or to the attaining of the purposes of its members.

(2) Any competent person authorized by a league may examine into the affairs of any credit union that is a member of the league and for such purpose he shall be given access Examination by league

to all books, records and other documents of the credit union and he may make whatever inquiries are necessary to ascertain its true condition and its ability to provide for the payment of its liabilities as they become due, and the officers and employees of the credit union shall facilitate him in his examination and inquiry.

Act to apply to leagues

(3) The provisions of this Act applicable to credit unions apply *mutatis mutandis* to leagues and their incorporation except where inconsistent with this section, but the Lieutenant Governor in Council may by regulation declare that any provision of this Act does not apply to leagues.

Ancillary powers

(4) Every league has power as incidental and ancillary to its objects,

(*a*) to apply to and enter into any agreement with the Canada Deposit Insurance Corporation, the Ontario Share and Deposit Insurance Corporation, the Government of Canada, the Government of Ontario, a chartered bank or other corporation or person, to obtain loans or other financial assistance;

(*b*) to act as agent or subagent for primary or secondary distribution of bonds, debentures or other evidences of indebtedness of or guaranteed by the Government of Canada or any province and for that purpose trade in such bonds, debentures or other evidences of indebtedness to the extent necessary;

(*c*) to become a member of, buy shares in, deposit money with or borrow money from any other league or any co-operative credit society or association as defined in the *Co-operative Credit Associations Act* (Canada) or any other like institution incorporated under the laws of Canada or any province;

R.S.C. 1970, c. C-29

(*d*) when authorized by the Director, to establish and maintain trust funds for the benefit of the member credit unions;

(*e*) to provide such other services as may be authorized by the regulations.

Application of R.S.C. 1970, c. C-29

(5) A league may accept and exercise all rights, powers, privileges and immunities conferred on it by the *Co-operative Credit Associations Act* (Canada).

Acting outside powers

13.—(1) No act of a credit union and no transfer of real or personal property to or by a credit union, other-

wise lawful, that is heretofore or hereafter done or made, is invalid by reason of the fact that the credit union was without capacity or power to do such act or make or receive such transfer, but such lack of capacity or power may be asserted,

(*a*) in a proceeding against the credit union by a member under subsection 2;

(*b*) in a proceeding by the credit union, whether acting directly or through a receiver, liquidator, trustee or other legal representative or through members in a representative capacity, against a director or officer or former director or officer of the credit union; or

(*c*) as cause for the cancellation of the certificate of incorporation of the credit union.

Restraining order

(2) A member of a credit union may apply to the court for an order to restrain the credit union from doing any act or transferring or receiving the transfer of real or personal property on the ground that the credit union lacks capacity or power for the purpose, and the court may, if it considers it to be just and equitable, grant an order prohibiting the credit union from doing the act or transferring or receiving the transfer of the real or personal property, but, where the act or transfer sought to be restrained or prohibited is being or to be done or made under a contract to which the credit union is a party,

(*a*) all the parties to the contract shall be parties to the proceeding;

(*b*) the court in granting the order may set aside the contract and allow the credit union or other parties to the contract, as the case may be, such compensation as may be equitable for the loss or damage sustained by any of them from the granting of the order and setting aside of the contract, other than anticipated profits from the contract.

CONTRACTS

Contracts in writing under seal

14.—(1) A contract that if entered into by an individual person would by law be required to be in writing and under seal may be entered into on behalf of a credit union in writing under the seal of the credit union.

Contracts in writing under seal

(2) A contract that if entered into by an individual person would by law be required to be in writing signed

by the parties to be charged therewith may be entered into on behalf of a credit union in writing signed by any person acting under its express authority.

Parol contracts

(3) A contract that if entered into by an individual person would by law be valid although made by parol only and not reduced into writing may be entered into by parol on behalf of a credit union by any person acting under its express authority.

Prior consent of Director

15. A credit union shall not acquire, purchase or lease real estate for its own use where the cost of such real estate or building or of the lease over its duration is in an amount equal to more than 8 per cent of the total share capital and deposits of a credit union without the prior written consent of the Director.

BY-LAWS

Extent of by-laws

16. The directors may pass by-laws not contrary to this Act or to the articles to regulate,

(*a*) the fees, terms and conditions of admission to, and withdrawal and expulsion from, membership in the credit union;

(*b*) the allotment and recording of shares, the maximum number that may be alloted to any member, the payment for shares and the transfer of shares;

(*c*) the terms, conditions and limitations under which deposits may be made with the credit union;

(*d*) the terms, conditions and limitations for loans made by the credit union and the interest thereon;

(*e*) the time and place of and the notice and the record date for the determination of members entitled to vote to be given for the holding of meetings of members and of the board of directors, the quorum of meetings of members and the procedure and language in all things at members' meetings and at meetings of the board of directors;

(*f*) the time for and manner of election of directors, and the qualification and remuneration of directors including conditions on eligibility of directors of the credit union;

(*g*) the appointment, remuneration, functions, duties and removal of officers and employees of the credit

union and the security, if any, to be given by them to it;

(*h*) the purposes for which the profits of the credit union may be appropriated or distributed by way of rebate of interest on loans, by dividends or otherwise;

(*i*) where the credit union is a member of a league, a yearly assessment of its members as provided in the by-laws of the league to be paid to the league to assist in its financing;

(*j*) the conduct in all other particulars of the affairs of the credit union.

Remuneration of directors

17. A by-law relating to the remuneration of directors may provide that the board of directors by resolution shall fix the remuneration and period for which it is to be paid.

Passing of by-laws

18.—(1) No by-law is effective until it is,

(*a*) passed by the board of directors of a credit union;

(*b*) confirmed, with or without variation, by at least two-thirds of the votes cast at a general meeting of the members of the credit union duly called for that purpose, or such greater proportion of the votes cast as the articles provide; and

(*c*) approved by the Director in the manner prescribed in this section.

Submission to Director

(2) Upon the confirmation of a by-law under clause *b* of subsection 1, the board of directors shall forward to the Director two copies thereof signed by two officers or one officer and one director.

Approval by Director

(3) The Director shall signify his approval by certifying the approval on one copy of the by-law with the date of the approval and returning it by prepaid mail to the credit union.

Copies of by-laws

19. A copy of the by-laws of a credit union shall be delivered by the credit union to a member on demand on payment of a fee fixed by the by-laws, which shall not exceed the amount prescribed therefor by the regulations.

CAPITAL

Capital

20.—(1) The authorized capital of a credit union shall be divided into shares with par value and the amount thereof

and the number of shares shall be determined by the by-laws of the credit union, but the par value of each share shall in no case exceed $10.

Capital, how increased and diminished

(2) The subscribed capital of a credit union may, subject to the by-laws, be increased by payment for shares by members, and may be diminished by withdrawal of such payments by members.

Fully paid shares only

(3) No share in a credit union shall be allotted until it is fully paid for and a share is not fully paid until payment in cash therefor has been received by the credit union.

No commission on shares

(4) No commission, discount, allowance, or other compensation shall be paid or allowed by a credit union in consideration of the subscription for or sale of any of its shares.

Shares are personal property

(5) The shares of a credit union are personal property.

Additional shares

(6) The payment on account of shares by a member and the receipt thereof by a credit union shall be deemed to be an allotment of such shares to the members.

Member's liability for shares

(7) A member is not liable to the credit union for shares subscribed for in excess of the amount actually paid thereon.

Where capital impaired

(8) Where the board of directors determines that the credit union has suffered an impairment of capital, the board may by resolution fix the proportion of money invested in shares that may be withdrawn, and so long as any impairment of capital exists, may from time to time change the proportion that may be withdrawn.

Idem

(9) No member of a credit union shall withdraw any portion of the money invested in shares in excess of the proportion specified in the resolution under subsection 8, or set off against any debts owing by him to the credit union a greater proportion of the money invested in shares than is specified in the resolution.

Idem

(10) No resolution passed under subsection 8 applies to money invested in shares after the date of the resolution.

BORROWING

Borrowing by-law

21.—(1) Subject to the qualifications, limitations and restrictions in this Act, the board of directors of a credit union, when authorized by by-law, may,

(*a*) borrow money by way of loan, exclusive of money received on deposit, at such rates of interest and upon such terms as the board of directors may from time to time determine in an amount, exclusive of money on deposit, not exceeding 25 per cent of the paid-in capital, deposits and surplus of the credit union, but when specifically authorized by by-law, the total amount borrowed, exclusive of money received on deposit, may be an amount not exceeding 50 per cent of the total of the paid-in capital, deposits and surplus of the credit union;

(*b*) subject to clause *a*, charge, mortgage, hypothecate or pledge all or any currently owned or subsequently acquired real or personal, movable or immovable property of the credit union, including book debts, rights, powers and franchises and undertaking, to secure any debt obligation or any money borrowed, or other debt or liability of the credit union.

Leagues excepted

(2) Clause *a* of subsection 1 does not apply to a league.

Not to issue debentures

22.—(1) A credit union shall not borrow by the issue of a debenture.

Leagues excepted

(2) Subsection 1 does not apply to a league.

Filing of mortgage of credit union

23.—(1) Where a credit union makes a charge, mortgage or other instrument of hypothecation or pledge, other than an assignment of its accounts receivable or its negotiable instruments, to secure its debt obligations, the board of directors of the credit union shall forthwith after the making thereof, file a duplicate original or certified copy of the instrument with the Director, but such filing may be made by any interested person.

Idem

(2) Where the filing is by an interested person under subsection 1, that person is entitled to recover from the credit union the amount of any prescribed fee paid by him on such filing.

Exception

(3) Subsection 1 does not apply to an instrument that is filed or registered under any other Act.

Limitation by the director

24. The Director may from time to time inquire into the borrowing of a credit union and may limit the authority of the board of directors of a credit union to further borrow by giving notice of the limitation by registered mail to the board setting forth his reasons for limiting the borrowing powers and a credit union shall not exercise its borrowing powers in excess of any limitation imposed by the Director.

REGISTERS

Register of members

25.—(1) Every credit union shall keep a register of members and shares.

Certificate as evidence

(2) A statement as to,

(*a*) the names and addresses of the members and the number of shares held by each member;

(*b*) the date on which the name of any person was entered in the register as a member; or

(*c*) the date on which any person ceased to be a member,

purporting to be certified by the secretary is, without proof of the office or signature of the secretary, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

Documents to be kept

(3) Every credit union shall keep or cause to be kept the following documents and registers,

(*a*) a copy of its articles;

(*b*) the by-laws and resolutions, including special resolutions, of the credit union;

(*c*) a register of the members of the board of directors, credit committee and supervisory committee, and all officers of the credit union, setting out their names, residence addresses, giving the street and number, if any, and occupations, with the several dates on which they have become or ceased to be a member of such board or committee;

(*d*) a register of all securities held by the credit union;

(*e*) books of account and accounting records with respect to all financial and other transactions of the credit union as may be required by the Director;

(*f*) the minutes of all proceedings at meetings of members, directors and any committees.

MEMBERS

Membership

26. Subject to the provisions of this Act and its articles, membership in a credit union is governed by its by-laws.

Incorporators deemed members

27.—(1) Each incorporator of a credit union who has subscribed for a share in the credit union becomes a member upon the effective date of incorporation and shall be entered upon the register of members.

Subscription deemed application

(2) A subscription for shares in a credit union constitutes an application for membership and the allotment of a share to the applicant constitutes admission to membership.

Applicants for membership

(3) Subject to subsection 1, no person shall become a member of a credit union until his application for membership has been approved by the board of directors and the applicant has complied fully with the by-laws governing admission of members.

Membership limitation

28.—(1) Subject to subsection 2, the by-laws of every credit union shall provide that the membership of the credit union shall be limited to persons having a common bond of occupation or association or to persons residing or working within a municipality, neighbourhood or other reasonably well-defined community.

Removal of limitation

(2) A credit union may apply to the Director for the repeal from its by-laws of the provisions referred to in subsection 1 and the Director, if he is satisfied that the credit union is of a sufficient membership and capital and that it is being operated in a satisfactory manner, may approve the repealing by-law and permit its filing on such terms as the Director sees fit.

Director's approval

(3) The Director shall not approve a by-law of a credit union under subsection 2 unless the credit union proposes to have a full-time management and a self-contained place of business and would be, in his opinion, capable of providing a satisfactory service to its members.

Register of members

29. Every person whose name is registered in the register of members is entitled to,

(*a*) a passbook or other record specifying the amount paid upon shares, deposits and loans by him; and

(*b*) such other information as may be prescribed by the by-laws of the credit union,

and the passbook or other record is admissible in evidence as *prima facie* proof of membership and of the information entered therein.

Voting

30.—(1) A member of a credit union has only one vote.

Proxies permitted

(2) No member of a credit union shall vote by proxy except when such member is an unincorporated association or a municipality as defined in *The Municipal Affairs Act*.

R.S.O. 1970, c. 118

Liability of members

31. A member is not responsible for any act, default or liability of the credit union, or for any engagement, claim, payment, loss, injury, transaction, matter or thing relating to or connected with the credit union beyond the amount paid on his share or shares.

Not bound by trust

32. A credit union is not bound to see to the execution of any trust, whether express, implied or constructive to which any share or deposit is subject.

Shares in trust

33. A member, in addition to holding shares in his own name, may subscribe for and hold shares and make deposits in trust for a named beneficiary, and such beneficiary without payment of any entrance fee shall be deemed to be a member of the credit union only for the purpose of qualifying for life insurance under a group policy of insurance purchased by the credit union on the lives of its members and is not entitled to notice of meetings or to vote at meetings.

Joint accounts

34. Two or more members may hold their shares and deposits in a joint account and, in the absence of written notice to the contrary, payment by the credit union to any of such members or to the survivor or any of the survivors of such members of any money standing to the credit of the joint share or deposit account discharges the credit union from any further liability for such payment.

Ages of members

35.—(1) Subject to the by-laws, a person under the age of eighteen years may be a member of a credit union, and every such member may enjoy all the rights of a member and execute all instruments and give all acquittances necessary to be executed or given except that members under the age of sixteen years are not entitled to vote.

Right to borrow

(2) A member under the age of sixteen years does not have the right to borrow any amount in excess of his deposits in the credit union except upon a joint and several promissory note signed by him and by a person eighteen years of age or over.

Deposits

(3) A member under the age of eighteen years may deposit money with a credit union in his own name, and the money so deposited may be repaid to him, and he

may give a valid discharge therefor, notwithstanding his minority.

Corporate and partnership members R.S.O. 1970, c. 340

36.—(1) A corporation or a partnership registered under *The Partnerships Registration Act* may become a member of a credit union on such terms and conditions as are prescribed by the regulations.

Unincorporated associations

(2) Any unincorporated association may become a member of a credit union where more than 51 per cent of the members thereof are composed of the same general group as the members of the credit union.

Transmission of shares R.S.O. 1970, c. 449

37.—(1) Subject to section 38 and *The Succession Duty Act*, where a transmission of a share in a credit union takes place by virtue of any testamentary act or instrument, or in consequence of an intestacy, if the probate of the will or letters of administration or document testamentary, or other judicial or official instrument under which the title, whether beneficial or as trustee, or the administration or control of the personal estate of the deceased is claimed to vest, purports to be granted by any court or authority in any country, the probate of will or letters of administration or document testamentary or other judicial or official instrument or an authenticated copy thereof, or an official extract therefrom, may, together with a declaration in writing showing the nature of the transmission and signed and executed by the person claiming by virtue thereof, be produced and deposited with the secretary or officer named by the board of directors of the credit union for the purpose of receiving it.

Proof

(2) The production and deposit specified in subsection 1 shall be sufficient authority to the board of directors to pay the amount or value of any obligation on shares, in pursuance of, and in conformity with the letters probate, letters of administration, or other instrument.

Payment of moneys re deceased member

38.—(1) Where a member of a credit union dies, the board of directors may pay,

(*a*) an amount not exceeding $2,500 out of the amount on deposit in the name of the deceased or for the shares of the deceased; and

(*b*) an amount not exceeding $2,500 out of any money that is received by the credit union under any policy of insurance on the life of the deceased,

to any person who the board is satisfied, by statutory declaration attested to not sooner than thirty days after the death, is entitled.

Effect of payment

(2) A payment made under subsection 1 discharges any obligation of the credit union or its board of directors in respect of the money paid but does not affect the right of any other person claiming to be entitled to recover such money from the person to whom it was paid.

Deposits or shares in trust

(3) Where a member of a credit union dies holding shares or money on deposit in his name in trust for a named beneficiary, the credit union may pay the amount of such shares or deposit and any interest thereon to the executor or administrator of the estate of the deceased member, subject to the trusts or, where there is no executor or administrator, to the beneficiary or, where the beneficiary is a minor, to his parent or guardian.

Unclaimed credits

39. Where moneys are held by a credit union for the credit of one of its members by reason of a deposit made or shares held by such member and the credit union is unable after reasonable efforts to locate the person entitled to such moneys, the credit union may pay such moneys to the Treasurer of Ontario and the Treasurer of Ontario may pay such moneys to the person entitled thereto upon satisfactory proof being furnished that he is the person entitled to receive such moneys.

Withdrawal of members

40.—(1) A member of a credit union may withdraw from a credit union at any time by giving notice thereof in accordance with the by-laws.

Idem

(2) A deceased member shall be deemed to have given notice to the credit union of his intention to withdraw on the day of his death.

Payment to withdrawing member

(3) All amounts paid to the credit union on shares and deposits by a withdrawing member shall, after deducting all amounts due from the member to the credit union, be paid to such member within ninety days of his giving notice of his intention to withdraw.

Idem

(4) A withdrawing member is entitled to receive any dividend, interest or rebate of loan interest paid or payable to other members of the credit union as at the date of his withdrawal on the same conditions that the board of directors have made applicable to all members of the credit union.

Notice of withdrawal

(5) Subject to subsection 3, a member who has given

notice of withdrawal, or is expelled from a credit union, has no further rights in the credit union, but he is not, by the withdrawal or expulsion, released from any remaining liability to the credit union.

Extension of time

(6) Where, in the opinion of the board of directors of the credit union, the payments in accordance with subsections 3 and 4 would not be in the best interests of the credit union, the board may by resolution suspend such payments for a period of one year or for such greater period and on such terms and conditions as the Director may approve.

Expulsion of members

41.—(1) Subject to subsection 2, a member may be expelled from membership in a credit union by a resolution passed by a majority of the members at a meeting duly called for that purpose.

Notice of misconduct

(2) A resolution under subsection 1 is not valid unless,

(*a*) a charge of misconduct in respect of the affairs of the credit union has been made against the member by another member by filing with the board of directors full particulars in writing of such misconduct signed by him;

(*b*) the member charged has been furnished with a copy of the particulars at least four weeks previous to the meeting at which the resolution is to be considered;

(*c*) an opportunity is given to the member charged to appear either personally or by counsel or his agent to make submissions at the meeting of the members called to consider the resolution expelling him.

Notice of meeting

(3) The notice calling the meeting of members shall state that the charge has been made and specify the names of the members concerned.

Refund to expelled member

(4) A member who is expelled is entitled to a refund of the amount paid on his shares and his deposits with the credit union as well as any patronage interest or rebate of loan interest paid or payable to other members of the credit union as of the date of his expulsion on the same conditions that the board of directors have made applicable to all members of the credit union.

Representative action

42.—(1) Subject to subsection 2, a member of a credit union may maintain an action in a court of competent

jurisdiction in a representative capacity for himself and all other members of the credit union suing for and on behalf of the credit union to enforce any right, duty or obligation owed to the credit union under this Act or under any other statute or rule of law or equity that could be enforced by the credit union itself, or to obtain damages for any breach of any such right, duty or obligation.

Court order required

(2) An action under subsection 1 shall not be commenced until the member has obtained an order of the court permitting the member to commence the action.

Notice

(3) A member may, upon at least seven days notice to the credit union, apply to the court for an order referred to in subsection 2, and, if the court is satisfied that,

(*a*) the member was a member of the credit union at the time of the transaction or other event giving rise to the cause of action;

(*b*) the member has made reasonable efforts to cause the credit union to commence or prosecute diligently the action on its own behalf; and

(*c*) the member is acting in good faith and it is *prima facie* in the interests of the credit union or its members that the action be commenced,

the court may make the order upon such terms as the court thinks fit.

Costs

(4) At any time or from time to time while an action commenced under this section is pending, the plaintiff may apply to the court for an order for the payment to the plaintiff by the credit union of reasonable interim costs, including solicitor's and counsel fees and disbursements, for which interim costs the plaintiff shall be accountable to the credit union if the action is dismissed on final disposition at the trial or on appeal.

Action not to be discontinued, etc., without court approval

(5) An action commenced under this section shall not be discontinued, settled or dismissed for want of prosecution without the approval of the court and, if the court determines that the interests of the member or any class thereof may be substantially affected by such discontinuance, settlement or dismissal, the court, in its discretion, may direct that notice in manner, form and content satisfactory to the court shall be given, at the expense of the credit union or any other party to the action as the court directs, to the members or class thereof whose interests the court determines will be so affected.

DIRECTORS

First directors

43.—(1) Each of the persons named as first directors in the articles of a credit union is a director of the credit union until replaced by a person duly elected or appointed in his stead.

Idem

(2) The first directors of a credit union have all the powers and duties and are subject to all the liabilities of directors.

Election

44.—(1) Every credit union shall have a board of directors who shall be elected from its members in the manner provided in its by-laws and who shall hold office for such term as the by-laws provide and until their successors are elected.

Change in number

(2) A credit union may by by-law increase or decrease the number of its directors set out in the articles, subject to the minimum.

Directors to be members

45.—(1) No person shall be a director of a credit union unless he is a member thereof and of the full age of eighteen years, and, if he ceases to be a member, he thereupon ceases to be a director.

Qualifications

(2) No member shall be a director of a credit union unless he is a Canadian citizen, or is a person lawfully admitted to Canada for permanent residency who is ordinarily resident in Canada.

Conflict of interest

(3) No person shall be a director of a credit union who is a person acting for the credit union in a professional or business capacity or who enters into continuing contracts with the credit union.

Duties of board

46.—(1) The board of directors shall manage or supervise the affairs and business of the credit union and perform such duties as prescribed by this Act, the regulations and the by-laws of the credit union.

Election in rotation

(2) The by-laws may provide for the election and retirement of directors in rotation, but in that case no director shall be elected for a term of more than three years.

Quorum

(3) A majority of the board of directors constitutes a quorum.

Continuance in office

(4) If an election of directors is not held within the prescribed period, the directors continue in office until their successors are elected.

Vacancies

(5) Where a vacancy occurs in the board and a quorum of directors remains, the directors remaining in office may appoint a qualified person to fill the vacancy until the next annual meeting of the credit union.

Where no quorum

(6) When there is not a quorum of directors in office, the director or directors then in office shall forthwith call a general meeting of the members to fill the vacancies, and, in default or if there are no directors then in office, the meeting may be called by any member.

Expulsion of directors

47.—(1) When a member of the board of directors fails to attend three consecutive meetings of the board without, in the opinion of the board, having a reasonable cause therefor or fails to perform any of the duties allotted to him as a director, his position on the board may be declared vacant by the remaining directors who may appoint a qualified person to fill the vacancy until the next annual meeting of the credit union.

Removal of directors

(2) The members may, by resolution passed by two-thirds of the votes cast at a general meeting duly called for the purpose, remove a director before the expiration of his term of office, and shall by a majority of the votes cast at that meeting appoint another director in his stead for the remainder of his term.

Notice

(3) The notice calling the meeting of the members referred to in subsection 2 shall specifically state that the purpose of the meeting is to remove the director who is named therein.

Right to make representations

(4) The director has the right at the meeting to make such representations to the members regarding the resolution for his removal as he thinks fit and may be represented by legal counsel or an agent.

CREDIT COMMITTEE

Credit committee

48.—(1) Subject to section 51, every credit union shall have a credit committee who shall be elected from its members in the manner prescribed by its by-laws and who shall hold office for such term as the by-laws provide and until their successors are elected.

Number of members

(2) The credit committee shall consist of the number of members fixed by the by-laws, which shall be not fewer than three.

Qualifications

(3) No person who is a member of the board of directors

or of the supervisory committee or who is an officer of the credit union shall be a member of the credit committee.

Age

(4) No member shall be a member of the credit committee unless he is of the full age of eighteen years.

President a member

(5) In addition to the members referred to in subsections 1 to 4, the president is a member *ex officio* of the credit committee.

Duties

49.—(1) The credit committee shall consider all applications for loans and within the limits provided in the by-laws approve all loans to members of the credit union and perform such duties as are prescribed by this Act, the regulations and the by-laws of the credit union.

Election in rotation

(2) The by-laws of the credit union may provide for the election and retirement of members of the credit committee in rotation, but in that case no member of the credit committee shall be elected for a term of more than three years and all members shall not hold office for the same term.

Quorum

(3) A majority of the credit committee, not including the president, constitutes a quorum.

Vacancies

(4) Where a vacancy occurs in the credit committee and a quorum of members of the credit committee remains, the members of the committee remaining in office may appoint a qualified person to fill the vacancy until the next annual meeting of the credit union.

Idem

(5) When there is not a quorum of members of the credit committee in office, the board of directors may fill all vacancies until the next annual meeting of the credit union.

Removal of member

(6) When a member of the credit committee fails to attend three consecutive meetings without, in the opinion of the other members of the committee, having a reasonable cause therefor or fails to perform any of the duties allotted to him as a member of the committee, his position on the committee may be declared vacant by the other members of the committee who may then appoint a qualified person to fill the vacancy until the next annual meeting of the credit union.

Loan officer

50.—(1) The board of directors of a credit union may by by-law appoint one or more persons who are employees of the credit union, to act as a loan officer and perform all or such part of the duties of the credit committee as are specified by the by-law.

May supersede credit committee

(2) If the by-law provides that the person or persons so appointed shall perform all the duties of the credit committee, it shall also provide that as long as the by-law remains in force, it shall not be necessary to elect a credit committee as required by section 48 or that, as long as the by-law remains in force, the credit committee shall have only the powers of an advisory committee.

Officer to approve loan

51.—(1) The credit committee may, upon such terms as it determines, authorize the treasurer, manager or other employee of the credit union to approve loans to a member in an amount not exceeding the aggregate of the amount of such member's shares and deposits, together with such other amounts up to 80 per cent of the market value of Government of Canada or provincial bonds pledged as security, and such further amounts as may be unsecured up to the maximum amount prescribed by the regulations.

Monthly report

(2) Any person authorized by the credit committee to approve loans under subsection 1 shall submit a written monthly report to the credit committee stating the number of loan applications received, the number of loans granted and the security, if any, obtained for such loans.

Duties of such persons appointed

(3) The responsibilities and duties of any person authorized to approve loans under subsection 1 is concurrent with the responsibilities and duties of the credit committee.

Credit committee reports

52. The credit committee shall keep minutes of its meetings and shall,

(*a*) submit a written monthly report to the board of directors stating the number of loan applications received, the number and category of loans granted, the security obtained for such loans together with a report on applications denied and a report on all loans that are delinquent; and

(*b*) submit a written annual report on such matters to the annual meeting of the credit union.

Removal of member

53.—(1) The members may, by resolution passed by two-thirds of the votes cast at a general meeting duly called for the purpose, remove a member of the credit committee before the expiration of his term of office, and shall by a majority of the votes cast at that meeting appoint another member in his stead for the remainder of his term.

(2) The notice calling the meeting of members referred to in subsection 1 shall specifically state that the purpose of the meeting is to remove the member of the credit committee who is named therein. Notice

(3) The member of the credit committee has the right to make such representations at the meeting regarding the resolution for his removal as he thinks fit, and may be represented by legal counsel or his agent. Right to make representations

SUPERVISORY COMMITTEE

54.—(1) Subject to section 58, every credit union shall have a supervisory committee who shall be elected from its members in the manner prescribed in its by-laws and shall hold office for such term as the by-laws provide and until their successors are elected. Supervisory committee

(2) The supervisory committee shall consist of the number of members fixed by the by-laws, which shall be not fewer than three. Composition

(3) No person who is a member of the board of directors or credit committee or who is an officer of the credit union shall be a member of the supervisory committee. Qualifications

(4) No member shall be a member of the supervisory committee unless he is of the age of eighteen years. Age

55.—(1) The supervisory committee shall examine the books of the credit union, confirm the cash instruments, property and securities of the credit union and confirm the deposits of the members and perform such other duties as are prescribed by this Act, the regulations and the by-laws of the credit union. Duties

(2) The by-laws of the credit union may provide for the election and retirement of members of the supervisory committee in rotation, but in that case no member shall be elected for a term of more than three years. Election in rotation

(3) A majority of the supervisory committee constitutes a quorum. Quorum

(4) When a vacancy occurs in the supervisory committee and a quorum of members of the supervisory committee remains, the members of the committee remaining in office may appoint another member to fill the vacancy until the next annual meeting of the credit union. Vacancies

Idem

(5) When there is not a quorum of members of the supervisory committee in office, the board of directors may fill all vacancies until the next annual meeting of the credit union.

Idem

(6) When a member of the supervisory committee fails to attend three consecutive meetings of the committee without, in the opinion of the supervisory committee, having a reasonable cause therefor, or fails to perform any of the duties allotted to him as a member of the committee, his position on the committee may be declared vacant by the remaining members of the committee who may appoint a qualified person to fill the vacancy until the next annual meeting of the credit union.

Clerks

(7) The supervisory committee may appoint such persons as it considers necessary to assist it in performing its duties, but the remuneration to be paid to such persons is subject to the approval of the board of directors.

Duty when misappropriation, etc.

56.—(1) When the supervisory committee is of the opinion that the funds, securities or other property of the credit union have been misappropriated or misdirected, or in the event that the by-laws of the credit union, this Act or the regulations have been contravened by the board of directors, the credit committee or a member thereof or an officer or employee engaged by the board of directors, the supervisory committee shall forthwith advise the Director and the Ontario Share and Deposit Insurance Corporation in writing.

Audit

(2) The supervisory committee shall appoint an auditor or auditors who may be employees of a league to assist it in determining whether any of the funds, securities or other property of the credit union have been misappropriated or any officer or employee without the holding of a general appointed shall be paid by the credit union and determined by the supervisory committee.

Suspension

(3) In the event of a misappropriation or misdirection or a suspected misappropriation or misdirection as referred to in subsection 1, the supervisory committee may suspend any member of the board of directors or credit committee or any officer or employee without the holding of a general meeting and may appoint another person to perform the duties of the person so suspended, until a new member is duly elected.

Meeting of members

(4) The supervisory committee shall forthwith give notice of a general meeting of the members to be held within fourteen days after the suspension under subsection 3.

(5) The supervisory committee shall report to the general meeting all the circumstances of any misappropriation or misdirection of funds, securities or other property and the reasons for any suspension, and the members of the credit union may, by resolution, dismiss from office any person so suspended, and, when the members of the credit union do not so vote to dismiss from office any person so suspended, that person shall be reinstated forthwith. Idem

57.—(1) The supervisory committee shall meet at least every two months and shall at each meeting examine the affairs of the credit union and where no auditor has been appointed shall audit the affairs of the credit union. Meetings

(2) The supervisory committee shall keep minutes of its meetings and shall, Report of minutes

(*a*) within seven days of each meeting report the results thereof in writing to the board of directors; and

(*b*) submit a written report to the annual meeting of the members of the credit union.

58.—(1) A credit union may, by by-law, provide for the appointment of an auditor or auditors in addition to or substitution for the supervisory committee and may delegate to such auditor or auditors such part of the duties of the supervisory committee as the by-law provides. Auditors

(2) The board of directors of the credit union may fix the remuneration of the auditor or auditors. Remuneration of auditors

(3) Where a credit union has passed a by-law under subsection 1 appointing an auditor or auditors to perform the duties of the supervisory committee, the by-law may further delegate the remaining powers and duties of the supervisory committee to the board of directors and so long as such by-law remains in force no supervisory committee shall be elected as required by section 54. Delegation of powers to board of directors

59.—(1) The members may, by resolution passed by two-thirds of the votes cast at a general meeting duly called for the purpose, remove a member of the supervisory committee before the expiration of his term of office, and shall by a majority of the votes cast at that meeting appoint another member in his stead for the remainder of his term. Removal of members

(2) The notice calling the meeting of members referred to in subsection 1 shall state that the purpose of the meeting Notice

is to remove the member of the supervisory committee who is named therein.

Right to make representations

(3) The member of the supervisory committee has the right to make such representations to the members regarding the resolution for his removal as he thinks fit, and may be represented by legal counsel or his agent.

OFFICERS

Officers

60.—(1) A credit union shall have a president and secretary and such other officers as are provided for by by-law.

Idem

(2) The board of directors shall elect the president and secretary from among themselves.

Payments to officers

(3) All payments to officers of a credit union for services rendered shall be approved by its board of directors.

Bond on certain officers and employees

61.—(1) Every officer or employee engaged by the board of directors of a credit union who receives or has charge of money shall, before assuming the duties of his office, furnish a bond for the due accounting of moneys received by him and the faithful performance of his duties with such sureties and in such form and amount as the board of directors may determine.

Minimum amount of bond

(2) The Lieutenant Governor in Council may make regulations prescribing the minimum amount of any bond to be provided under subsection 1.

AUDITORS AND FINANCIAL STATEMENTS

Appointment of auditors

62.—(1) The members of a credit union having combined paid-in capital and deposits of more than $300,000 and a credit union permitted to operate with negotiable orders shall,

(*a*) at their first general meeting appoint one or more auditors to hold office until the close of the first annual meeting and, if the members fail to do so, the board of directors shall forthwith make such appointment or appointments; and

(*b*) at each annual meeting appoint one or more auditors to hold office until the close of the next annual meeting and, if an appointment is not so made, the auditor in office continues in office until a successor is appointed.

(2) The members of any other credit union may appoint an auditor. Idem

(3) The board of directors may fill any casual vacancy in the office of auditor, but, while such vacancy continues, the surviving or continuing auditor, if any, may act. Casual vacancy

(4) The members may, by resolution passed by a majority of the votes cast at a general meeting duly called for the purpose, remove an auditor before the expiration of his term of office, and shall by a majority of the votes cast at that meeting appoint another auditor in his stead for the remainder of his term. Removal of auditors

(5) Before calling a general meeting for the purpose specified in clause *b* of subsection 1, the credit union shall, fifteen days or more before the mailing of the notice of the meeting, give to the auditor, Notice to auditor

(*a*) written notice of the intention to call the meeting, specifying therein the date on which the notice of the meeting is proposed to be mailed; and

(*b*) a copy of all material proposed to be sent to members in connection with the meeting.

(6) The auditor has the right to make to the credit union three days or more before the mailing of the notice of the meeting, representations in writing concerning his proposed removal as auditor, and the credit union, at its expense, shall forward with the notice of the meeting a copy of such representations to each member entitled to receive notice of the meeting. Right to make representations

(7) If for any reason no auditor is appointed, under subsection 1, the Director may require that the board of directors appoint one or more auditors to hold office until the close of the next annual meeting and the board shall establish the remuneration to be paid by the credit union for his or their services. Appointment by the director

(8) The credit union shall give notice in writing to an auditor of his appointment forthwith after the appointment is made. Notice of appointment

(9) A person, other than an incumbent auditor, may not be appointed auditor at an annual meeting unless notice of an intention to nominate that person to the office of auditor has been given by a member to the credit union not less than fifteen days before the mailing of the Notice of intention

notice of the meeting at which the auditor is to be appointed, and, where such notice is given, the credit union shall send a copy of the notice to the incumbent auditor and to the person whom it is intended to nominate and shall give notice thereof to the members of the credit union.

Right to make representations

(10) The incumbent auditor has the right to make to the credit union, three days or more before the mailing of the notice of the meeting representations in writing concerning the proposal not to reappoint him as auditor, and the credit union, at its expense, shall forward with the notice of the meeting, a copy of such representations to each member entitled to receive notice of the meeting.

Persons disqualified as auditors

63.—(1) No person shall be appointed or act as the auditor of a credit union who is a director, officer or employee of the credit union or who is a partner, employer or employee of any such director, officer or employee or who is a related person to any director or officer of the credit union.

Idem

(2) No person shall be appointed or act as the auditor of a credit union if he or any partner or employer of or related person to him beneficially owns, directly or indirectly, any shares or securities of the credit union or is a member of the credit union.

Auditors not to be appointed receivers

(3) No person shall be appointed a receiver or a receiver and manager or liquidator of any credit union of which he or any partner or employer of or a related person to him is the auditor or has been the auditor within the two years preceding his appointment as receiver and manager or liquidator.

Trustee in bankruptcy not to be auditor
R.S.C. 1970, c. B-3

(4) No person who is appointed a trustee of the estate of a credit union under the *Bankruptcy Act* (Canada) or any partner or employer of or a related person to him shall be appointed or act as auditor of the credit union.

Annual audit

64.—(1) The auditor shall make such examination as will enable him to report to the members of the credit union as required by subsection 2.

Auditor's report

(2) The auditor shall make a report to the members of the credit union on the financial statement to be placed before the members at its annual meeting in accordance with section 71, and shall state in his report whether in his opinion the financial statement referred to therein presents fairly the financial position of the credit union and the results of its operations for the period under review in

accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period, if any.

Auditor's statement

(3) The auditor shall also report that his examination was made in accordance with generally accepted auditing standards and that accordingly it included such tests and other procedures as he considered necessary in the circumstances.

Qualified report

(4) When the report under subsection 2 does not contain the unqualified opinion required thereby, the auditor shall state in his report the reasons therefor.

Facts discovered after statement

(5) Where facts come to the attention of the officers or board of directors which, if known prior to the date of the last annual meeting of members, would have required a material adjustment to the financial statement presented to such meeting, the officers or board shall communicate such facts to the auditor who reported to the members under this section and the board shall forthwith amend the financial statement and send it to the auditor.

Amendment of auditor's report

(6) On the receipt of facts furnished under subsection 5 or from any other source, the auditor shall, if in his opinion it is necessary, amend his report in respect of the financial statement in accordance with subsection 4 and the board of directors or, if they fail to do so within a reasonable time, the auditor shall mail the amended report to the members.

Right of access

(7) The auditor of a credit union has right of access at all times to all records, documents, accounts and vouchers of the credit union and is entitled to require from the board of directors, officers, employees and members of the credit committee or the supervisory committee of the credit union such information and explanation as in his opinion are necessary to enable him to report as required by subsection 2.

Right to attend meetings

(8) The auditor of a credit union is entitled to attend any meeting of members of the credit union and to receive all notices and other communications relating to any such meeting that a member is entitled to receive, and to be heard at any such meeting that he attends on any part of the business of the meeting that concerns him as auditor.

Member's right to require auditor's attendance

(9) Any member of a credit union who is entitled to vote at meetings of members, may, by notice in writing to the credit union given five days or more before any meeting of

members, require the attendance of the auditor at such meeting at the credit union's expense, and in such event the auditor shall attend the meeting.

Auditor to answer inquiries

(10) At any meeting of members, the auditor, if present, shall answer inquiries directed to him concerning the basis upon which he formed the opinion stated in the report made under subsection 2.

OFFICERS—GENERAL

Standards of care

65. Every director, officer, member of a supervisory committee and member of a credit committee of a credit union shall exercise the powers and discharge the duties of his office honestly, in good faith and in the best interests of the credit union, and in connection therewith shall exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

Validity of acts of officers and directors

66. An act done by a director, member of the supervisory committee, member of the credit committee or officer of a credit union is not invalid by reason only of any defect that is thereafter discovered in his appointment, election or qualification.

Liability

67. The liability imposed by this Act upon a director or member of the credit committee is in addition to any other liability that is by law imposed upon him.

Indemnity

68.—(1) Subject to subsection 2, the by-laws of the credit union may provide that every director, credit committee member, supervisory committee member or officer may from time to time be indemnified and saved harmless by the credit union from and against,

(*a*) any liability and all costs, charges and expenses that he sustains or incurs in respect of any action, suit or proceeding that is proposed or commenced against him or in respect of anything done or permitted by him in respect of the execution of the duties of his office; and

(*b*) all other costs, charges and expenses that he sustains or incurs in respect of the affairs of the credit union.

Idem

(2) The credit union shall not indemnify any person under subsection 1 in respect of any liability, costs, charges or expenses that he sustains or incurs in or about any action,

suit or other proceeding as a result of which he is adjudged to be in breach of any duty or responsibility imposed upon him by this Act or any other statute unless, in an action brought against him in his capacity of director, credit committee member, supervisory committee member or officer, he has achieved complete or substantial success as a defendant.

Insurance

(3) A credit union may purchase and maintain insurance for the benefit of a director, credit committee member, supervisory committee member or officer thereof, except insurance against a liability, cost, charge or expense incurred as a result of a contravention of section 65.

Disclosure of interests in contracts

69.—(1) Every director, officer, credit committee member or supervisory committee member of a credit union who has, directly or indirectly, any interest in any contract or transaction to which the credit union is or is to be a party, other than a contract limited solely to his remuneration for holding office, shall declare his interest in such contract or transaction at a meeting of the board of directors, credit committee or supervisory committee, as the case may be, and shall at that time disclose the nature and extent of such interest, to the extent to which such information is within his knowledge or control, and shall not vote and shall not in respect of such contract or transactions be counted in the quorum.

Interest must be material

(2) Subsection 1 does not require the disclosure of any interest in any contract or transaction unless the interest and the contract or transaction are both material, and the disclosure shall be made at the earliest possible meeting after the director, credit committee member or supervisory committee member becomes aware of the potential conflict of interest.

Effect of declaration

(3) If a director, officer, credit committee member or supervisory committee member has made a declaration and disclosure of his interest in a contract or a transaction in compliance with this section and has not voted in respect of the contract or transaction at the meeting at which it was considered and was acting honestly and in good faith at the time the contract or transaction was entered into, he is not by reason only of his holding office accountable to the credit union or to its members for any profit or gain realized from the contract or transaction, and the contract or transaction, if it was in the best interest of the credit union, is not voidable by reason only of his interest therein.

Confirmation by members

(4) Notwithstanding anything in this section, a director, officer, credit committee member or supervisory committee member, if he was acting honestly and in good faith, is not accountable to the credit union or to its members for any profit or gain realized from such contract or transaction by reason only of his holding office, and the contract or transaction, if it was in the best interest of the credit union at the time it was entered into is not by reason only of his interest therein voidable,

(*a*) if the contract or transaction is confirmed or approved by at least two-thirds of the votes cast at a general meeting of the members duly called for that purpose prior to the contract or transaction; and

(*b*) if the nature and extent of the interest in the contract or transaction are declared and disclosed in reasonable detail in the notice calling the meeting.

MEETINGS

Notice of meetings

70.—(1) Notice of the time and place for holding a meeting of the members of a credit union shall be given in accordance with the by-laws of the credit union, but in no event shall notice be given earlier than twenty-one days before the date of the meeting or later than fifty days before the date of the meeting.

To whom given

(2) Notice of a meeting shall be given to each member of a credit union who on the record date for notice appears on the records of the credit union as a member by sending the notice by prepaid mail to his latest address as shown on the records of the credit union.

Chairman

(3) The president, or in his absence, a vice-president who is a director, shall preside as chairman at a meeting of members, but if there is no president or such a vice-president, or if at a meeting neither of them is present within fifteen minutes after the time appointed for the holding of the meeting, the members present shall choose a person from among their number to be the chairman.

Annual meeting

71.—(1) The first and every successive meeting of a credit union shall be held at such time and place in Ontario as its by-laws provide, and, in default of provisions in that behalf, the annual meeting shall be held at its head office within 120 days of the year end of the credit union.

(2) At such meeting, the board of directors shall place the following before the credit union, Business to be dealt with

(*a*) a comparative financial statement for the period that commenced on the date of incorporation and ended not more than four months before the annual meeting or, if the credit union has completed a financial year, that commenced immediately after the end of the last completed financial year and ended not more than four months before the annual meeting, as the case may be, made up of,

(i) a statement of income for such period,

(ii) a statement of undivided earnings for such period,

(iii) a statement of statutory reserve,

(iv) a balance sheet as at the end of such period,

but it is not necessary to designate the statement referred to as the statement of income, the statement of undivided earnings, the statement of statutory reserve and the balance sheet;

(*b*) the report of the supervisory committee;

(*c*) where an auditor is required to be appointed, the report of the auditor to the members;

(*d*) such further information respecting the financial position of the credit union as its by-laws require.

(3) The balance sheet to be laid before the annual meeting shall be drawn up so as to present fairly the financial position as at the date to which it is made up so as to distinguish severally at least the following: What balance sheet to show

1. Cash and deposits.

2. Investments, the market value of which shall be stated.

3. Amounts due from members secured by a mortgage on real property.

4. Amounts due from members not secured by a mortgage on real property.

5. Land, buildings and equipment stating the basis of their valuation.

6. Bank loans and overdrafts.

7. Liability to members for amounts withdrawable by negotiable instrument.

8. Liability to members for debt obligations.

9. Amount received from members through the issuance of shares.

10. Undivided earnings.

11. Statutory reserve.

Statement of income

(4) The statement of income to be laid before an annual meeting shall be drawn up so as to present fairly the results of the operations for the period covered by the statement and so as to distinguish severally at least the following:

1. Income from amounts due from members that are secured by a mortgage on real property.

2. Income from amounts due from members that are not secured by a mortgage on real property.

3. Interest paid to members on debt obligations.

4. Provision for doubtful loans.

5. Provision for depreciation.

6. Interest rebate paid during period.

7. Non-recurring gains or losses of significant amount.

8. Taxes on income imposed by any taxing authority.

9. Directors' fees paid during the period.

10. Net income for the period.

What statement of undivided earnings to show

(5) The statement of undivided earnings shall be drawn up so as to distinguish at least the following items:

1. The balance of such undivided earnings at the end of the preceding financial period.

2. The additions to and deductions from undivided earnings during the financial period.

3. The balance of such undivided earnings at the end of the financial period.

What statement of statutory reserve to show

(6) The statement of statutory reserve shall be drawn up so as to distinguish at least the following items:

1. The balance of such reserve at the end of the preceding financial period.

2. The additions to and deductions from such reserve during the financial period.

3. The balance of such reserve at the end of the financial period.

Note to financial statement

(7) There shall be stated by way of note to the financial statement particulars of any change in accounting principle or pratice or method of applying any accounting principle or practice made during the period covered that affects the comparability of any of the statements with any of those for the preceding period and the effect, if material, of any such change upon the net income for the period.

Idem

(8) Where applicable, the following matters shall be referred to in the financial statement by way of note thereto:

1. Contractual obligations that will require abnormal expenditures in relation to the organizations normal business requirements or financial position.

2. Contractual obligations in respect of long term leases.

3. Contingent liabilities stating their nature and where practicable, the approximate amounts involved.

Form of financial statement

(9) The financial statement and reports required under this section shall be in such form and contain such additional content as are required by the regulations.

Auditor's report to be read

(10) The report of the auditor to the members shall be read at the annual meeting and shall be open to inspection at the meeting by any member.

Approval by directors

(11) The financial statement shall be approved by the board of directors and the approval shall be evidenced by the signature at the foot of the balance sheet of two of the

directors duly authorized to sign and the auditor's report shall be attached to or accompany the financial statement.

Copy to shareholders

(12) A credit union shall, at least twenty-one days before the date of the annual meeting of the members, send by prepaid mail to each member entitled to notice of the meeting at his latest address shown on the records of the credit union and to the Director a copy of the financial statement and a copy of the auditor's report, if any.

General meetings

72. The board of directors may at any time call a general meeting of the members for the transaction of any business, the general nature of which is specified in the notice calling the meeting.

Requisition for members' meeting

73.—(1) 5 per cent of the members of a credit union may requisition the board of directors to call a general meeting of the members for any purpose that is connected with the affairs of the credit union and that is not inconsistent with this Act.

Requisition

(2) The requisition shall state the general nature of the business to be presented at the meeting and shall be signed by the requisitionists and deposited at the head office of the credit union and may consist of several documents in like form, each signed by one or more requisitionists.

Duty of directors to call meeting

(3) Upon deposit of the requisition, the board of directors shall forthwith call a general meeting of the members for the transaction of the business stated in the requisition.

When requisitionists may call meeting

(4) If the board of directors do not within twenty-one days from the date of the deposit of the requisition call and hold the meeting, any of the requisitionists may call the meeting, which shall be held within sixty days from the date of the deposit of the requisition.

Calling of meeting

(5) A meeting called under this section shall be called as nearly as possible in the same manner as meetings of members are called under the by-laws, but, if the by-laws provide for more than twenty-one days notice of meetings, twenty-one days notice is sufficient for the calling of the meeting.

Repayment of expenses

(6) The credit union shall,

(*a*) reimburse the requisitionists for any reasonable expenses incurred by them by reason of the action taken by them under subsection 4; and

(*b*) retain out of any moneys due or to become due, by way of fees or other remuneration for their services, to such of the board of directors as were in default, an amount equal to the amount the requisitionists were reimbursed, unless, at the meeting, the members by a majority of the votes cast reject the reimbursement of the requisitionists.

Annual statement to be given to members

74. Every credit union shall without charge supply to every member upon application therefor or as provided by its by-laws, a copy of its last comparative financial statement and return.

Inspection of books

75.—(1) Except as provided in this Act, no member or other person has any right to inspect the books of a credit union.

Idem

(2) Any member or other person having an interest in the funds of a credit union may inspect his own account and the books containing the names of the members at all reasonable hours at its head office or at whatever other place they are kept, subject to such conditions as to time and manner of inspection as the by-laws may prescribe.

As to loan or deposit accounts of members

(3) A credit union may by by-law authorize the inspection of any of its books therein mentioned, in addition to the books containing the names of members, under such conditions as are thereby prescribed, and no person, unless he is an officer of the credit union or is specifically authorized by a resolution thereof, has the right to inspect the loan or deposit account of any other member without such other member's written consent.

Branch meetings

76.—(1) A credit union may establish a branch or branches with separate membership subject to such terms and conditions as are prescribed by the regulations and the branch may, by by-law, provide for the holding of meetings of the members who belong thereto.

Delegates

(2) Where a by-law under subsection 1 is in force, the members of a branch shall elect delegates, by special resolution, to represent the members at the annual or general meeting of the credit union, and the delegates so elected shall exercise the powers of the members of the branch at all meetings of the credit union and the members represented by such delegates are not entitled to vote at the meeting of the credit union.

Number and votes

(3) The number of delegates and votes allowed each branch at the meeting of the credit union shall be specified by the

by-laws of the credit union, as well as the time, place and manner of calling a branch meeting, the number of members of the branch that constitute a quorum and the procedure to be followed in the conduct of the branch meeting.

Majority

(4) The required majority vote for deciding each issue to be voted on at the branch meeting shall be the same as that required for deciding such issues at meetings of the entire membership of the credit union as specified in this Act, the regulations and the by-laws of the credit union.

DIVIDENDS

Dividends

77. Subject to the by-laws, the board of directors may declare, and the credit union may pay, a dividend on the amounts paid in on shares held by members at any time during the fiscal year and may, at their discretion, declare rebates of interest paid by members in respect of loans during that fiscal year.

When dividend not to be declared

78.—(1) The board of directors shall not declare and the credit union shall not pay any dividend when the credit union is insolvent, or any dividend the payment of which renders the credit union insolvent or that diminishes its capital.

Directors' joint and several liability

(2) The directors who vote in favour of or consent to the resolution authorizing the declaration of a dividend are jointly and severally liable to the credit union to the extent of the amount of the dividend so declared and paid or such part thereof as renders the credit union insolvent or diminishes its capital.

Exoneration

(3) If any director present at the meeting at which such dividend is declared, forthwith, or if any director then absent, within twenty-four hours after he becomes aware of the dividend and is able to do so, delivers or sends to the credit union by registered mail his protest against the dividend, and within eight days thereafter, sends a copy thereof to the Director, the director thereby and not otherwise exonerates himself from liability.

INVESTMENTS

Investments

79.—(1) A credit union may lend or invest its funds in,

government securities

(*a*) the bonds, debentures, stocks or other evidences of indebtedness issued or guaranteed by the government of Canada, or of a province or territory of Canada;

(*b*) the bonds, debentures or other evidences of indebtedness issued or guaranteed by a municipal corporation in Canada, or by a school or religious corporation in Canada, or secured by rates or taxes levied under the authority of the government of a province of Canada on property situate in such province and collectable by the municipalities in which such property is situate; municipal securities

(*c*) the bonds, debentures or other evidences of indebtedness issued by an authority or other body without share capital established and empowered pursuant to the law of Canada or any province thereof to administer, regulate the administration of, provide or operate port, harbour, airport, bridge, highway tunnel, transportation, communication, sanitation, water, electricity or gas services or facilities and, for any of these purposes, to levy, impose or fix taxes, rates, fees or other charges; revenue bonds

(*d*) the bonds, debentures or other evidences of indebtedness issued by a corporation that are fully secured by a mortgage, charge or hypothec to a trustee, or to the credit union upon any, or upon any combination, of the following assets, bonds, etc., secured by mortgage

(i) improved real estate or leasehold,

(ii) the plant or equipment of a corporation that is used in the transaction of its business, or

(iii) bonds, debentures or other evidences of indebtedness or shares, of a class authorized by this subsection, as investments, or cash balances, if such bonds, debentures or other evidences of indebtedness, shares or cash balances are held by a trustee,

and the inclusion, as additional security under the mortgage, charge or hypothec, of any other assets not of a class authorized by this Act as investments shall not render such bonds, debentures or other evidences of indebtedness ineligible as an investment;

(*e*) obligations or certificates issued by a trustee to finance the purchase of transportation equipment for a corporation incorporated in Canada to be used on railways or public highways, if the obligations or certificates are fully secured by, equipment trust certificates

(i) an assignment of the transportation equipment to, or the ownership thereof by, the trustee, and

(ii) a lease or conditional sale thereof by the trustee to the corporation;

debentures

(*f*) the bonds, debentures or other evidences of indebtedness issued or guaranteed by,

(i) a corporation if, at the date of investment, the preferred shares or the common shares of the corporation are authorized as investments by clause *h* or *i*,

(ii) a corporation, if its earnings in a period of five years ended less than one year before the date of investment have been equal in sum total to at least ten times and in each of any four of the five years have been equal to at least one and one-half times the annual interest requirements at the date of investment on all indebtedness of or guaranteed by it, other than indebtedness classified as a current liability in its balance sheet, and, if the corporation at the date of investment owns directly or indirectly more than 50 per cent of the common shares of another corporation, the earnings of the corporations during the said period of five years may be consolidated with due allowance for minority interests, if any, and in that event the interest requirements of the corporation shall be consolidated and such consolidated earnings and consolidated interest requirements shall be taken as the earnings and interest requirements of the corporation, and, for the purpose of this subclause, "earnings" means earnings available to meet interest charges on indebtedness other than indebtedness classified as a current liability;

guaranteed investment certificates

(*g*) guaranteed investment certificates issued by a trust company incorporated in Canada if, at the date of investment, the preferred shares or the common shares of the trust company are authorized as investments by clause *h* or *i*;

(*h*) the preferred shares of a corporation if, preferred shares

(i) the corporation has paid a dividend in each of the five years immediately preceding the date of investment at least equal to the specified annual rate upon all of its preferred shares, or

(ii) the common shares of the corporation are, at the date of investment, authorized as investments by clause *i*;

(*i*) the fully paid common shares of a corporation that during a period of five years that ended less than one year before the date of investment has either, common shares

(i) paid a dividend in each such year upon its common shares, or

(ii) had earnings in each such year available for the payment of a dividend upon its common shares,

of at least 4 per cent of the average value at which the shares were carried in the capital stock account of the corporation during the year in which the dividend was paid or in which the corporation had earnings available for the payment of dividends, as the case may be;

(*j*) mortgages or charges on improved real estate or leaseholds in Ontario notwithstanding that the mortgage or charge exceeds the amount that the credit union is otherwise authorized to invest if the excess is insured or guaranteed by the government of Canada or Ontario or by an agency of the government of Canada or Ontario or by a policy of mortgage insurance issued by an insurance company licensed under *The Insurance Act* for such class of insurance; guaranteed mortgages R.S.O. 1970, c. 224

(*k*) real estate or leaseholds for the production of income in Canada either alone or jointly with any other credit union or with any loan corporation or trust company incorporated in Canada, if, real estate or leaseholds for the production of income

(i) a lease of the real estate or leasehold is made to, or guaranteed by,

(A) the Government of Canada and its territories or of a province, or municipality thereof, or

(B) a corporation, the preferred shares or common shares of which are, at the date of investment, authorized as investments by clause *h* or *i*,

(ii) the lease provides for a net revenue sufficient to yield a reasonable interest return during the period of the lease and to repay at least 85 per cent of the amount invested in the real estate or leasehold within the period of the lease but not exceeding thirty years from the date of investment, and

(iii) the total investment of a credit union in any one parcel of real estate or in any one leasehold does not exceed 2 per cent of the book value of the total assets of the credit union,

and the credit union may hold, maintain, improve, lease, sell or otherwise deal with or dispose of the real estate or leasehold;

other real estate or leaseholds for the production of income

(*l*) real estate or leaseholds for the production of income in Canada either alone or jointly with any other credit union or with any loan corporation or trust company incorporated in Canada, if,

(i) the real estate or leasehold has produced, in each of the three years immediately preceding the date of investment, net revenue in an amount that, if continued in future years, would be sufficient to yield a reasonable interest return on the amount invested in the real estate or leasehold and to repay at least 85 per cent of that amount within the remaining economic lifetime of the improvements to the real estate or leasehold but not exceeding forty years from the date of investment, and

(ii) the total investment of a credit union in any one parcel of real estate or in any one leasehold does not exceed 2 per cent of the book value of the total assets of the credit union,

and the credit union may hold, maintain, improve, lease, sell or otherwise deal with or dispose of the real estate or dispose of the real estate or leasehold;

mutual funds

(*m*) in the fully paid shares or units of any mutual fund or corporation incorporated to offer public partici-

pation in an investment portfolio subject to such terms and conditions as may be prescribed by the Lieutenant Governor in Council.

(2) Notwithstanding clauses *j*, *k* and *l* of subsection 1, a credit union may invest its own funds to an aggregate amount not exceeding 5 per cent of its unimpaired capital, deposits and reserves, and may invest moneys received for term deposits under this Act to an aggregate amount not exceeding 5 per cent of such moneys in any other classes or types of investments, including mortgages or charges, the purchase of land, the improvement thereof, the construction of buildings thereon, and the management and disposal of such lands and buildings. Idem

80. The following restrictions, limitations and prohibitions apply to credit unions in the exercise of their investment policies under this Act, Investment restrictions

(*a*) a credit union shall not invest any of its funds in bonds, debentures or other evidences of indebtedness on which the payment of principal or interest is in default;

(*b*) a credit union shall not act as an underwriter in connection with the purchase or sale of any securities or other property of any kind;

(*c*) except as to securities issued or guaranteed by the Government of Canada or the government of a province of Canada, a credit union shall not invest in any one security or make a total investment in any one corporation that is not a credit union, either by the purchase of shares or other securities of such corporation or by lending to it on the security of its debentures or other assets or any part thereof, of more than 10 per cent of the book value of the total assets of the credit union;

(*d*) a credit union shall not make any investment the effect of which will be that it will hold more than 30 per cent of the common shares or 30 per cent of the total issued shares of any one corporation;

(*e*) the total book value of the investments of a credit union in common shares shall not exceed 5 per cent of the book value of the total assets of the credit union;

(*f*) the total book value of the investments of a credit union in real estate or leaseholds for the production of income shall not exceed 10 per cent of the book value of the total assets of the credit union;

(*g*) a credit union shall not make any investment in or loan to another credit union an amount in excess of 1 per cent of its unimpaired capital, deposits and surplus without the written approval of the Director; and

(*h*) a credit union shall not invest in the shares of a corporation that is a member of the credit union.

Loans and deposits

81.—(1) Subject to paragraphs 3 and 4 of subsection 2 of section 11, no credit union shall advance money by discount, loan or otherwise to, or accept deposits from, persons other than its members.

Limitation on interest

(2) Interest, together with all the costs of borrowing including bonuses, premiums and penalties shall not exceed such amount as is prescribed by the regulations.

Loans to officers

(3) No credit union shall lend to an officer or member of a committee or of the board of directors of the credit union an amount in excess of the aggregate of fully paid up shares and deposits of such member unless such loan is approved by the credit committee, the board of directors, and the supervisory committee.

Limitations on loans to members

(4) No credit union shall lend to a member an amount which is in excess of 10 per cent of the aggregate total of all deposits of members of the credit union or such lesser percentage as may be prescribed in the by-laws of the credit union.

Limitations on loans to unincorporated members

(5) No credit union shall lend to a member who is an unincorporated association unless such loan is approved by the credit committee, the supervisory committee and the board of directors.

Loans to corporate and partnership members

82.—(1) A credit union may make loans to corporations and partnerships who are members of the credit union in an aggregate not exceeding the greater of,

(*a*) 7 per cent of the credit union's unimpaired capital, deposits and surplus; or

(*b*) such percentage as the Director may approve, not in excess of 15 per cent of the unimpaired capital deposits and surplus of the credit union;

and such loans must be fully secured in the manner provided by the regulations.

(2) A credit union may make secured loans to unincorporated associations who are members in aggregate not exceeding 1 per cent of the credit union's unimpaired share capital. Loans to unincorporated members

(3) A credit union may make loans to members who are individuals on such terms as are provided for in the by-laws. Loans to individuals

83. A credit union may make loans to its members by way of mortgage, charge or hypothecation on a term not exceeding five years, subject to renewal if so agreed to by its members, and, Mortgage loans to members

(*a*) the maximum amount that may be loaned by way of mortgage, subject to any limitation in the by-laws of the credit union, shall not exceed,

(i) in the case of a first mortgage, three-quarters of the value of the real estate to which the mortgage or charge relates or where the excess over three-quarters of the value of the real estate to which the mortgage or charge relates is insured or guaranteed by the government of Canada, or Ontario or by an agency thereof, or by a policy of mortgage insurance issued by an insurance company licensed under *The Insurance Act* for such class of insurance 90 per cent of the value of the real estate to which the charge or mortgage relates, or R.S.O. 1970, c. 224

(ii) in the case of a second mortgage, when taken into account with the balance owing on the first mortgage, not exceeding four-fifths of the value of the real estate to which the mortgage or charge relates; and

(*b*) the mortgage shall contain a definitive provision for repayment which will result in the principal and interest being fully repaid within twenty-five years or such longer period of time as the regulations may prescribed,

but if the credit union becomes an approved lender for the purpose of making loans under the *National Housing Act*, the provisions of that Act apply to mortgage loans undertaken by the credit union under that Act. R.S.C. 1970, c. N-10

Student loans

R.S.C. 1970, cc. S-17, F-3, F-22

84. A credit union may make guaranteed loans under and in accordance with the provisions of the *Canada Student Loans Act* (Canada), the *Farm Improvement Loans Act* (Canada) or the *Fisheries Improvement Loans Act* (Canada) and such other Act as may be approved by the regulations.

Loans and advances

85.—(1) The credit committee may approve an extension of credit for a member by way of contract loans and advances may be made to such member from time to time within the limits of the approved extension of credit.

Review

(2) Every three months, the credit committee shall review all extensions of credit and an extension of credit expires if the member becomes more than ninety days in default of any repayment.

Contract loans

(3) An extension of credit by way of contract loan is a loan within the meaning of this Act.

Directors, etc., not to guarantee loans

86. No director, member of a credit committee, member of a supervisory committee or credit union officer or employee shall cosign, endorse, or act as a guarantor for any borrower from the credit union unless such loan was made to a related person and approved in the manner provided in section 81.

Postponement or renegotiation of loans

87. The credit committee of a credit union may in its discretion,

(*a*) upon receipt of a written request from a borrower or his cosigner, postpone the due date for the repayment of any one or more instalments of the principal of the loan or any part of an instalment or postpone the due date for the payment of any one or more payments of interest on the loan or any part of a payment, or both, and fix due dates accordingly;

(*b*) upon being satisfied that a loan is reasonably secure, authorize the release or substitution of any security or securities, in whole or in part, taken to secure a loan from the credit union to a member; and

(*c*) renegotiate a loan from the credit union to a member upon new terms in the event the circumstances of the borrower have changed.

Disposal of authorized investments

88.—(1) The Director may order a credit union to dispose of and realize any of its investments not authorized

by this Act, the regulations or the by-laws and the credit union shall within sixty days after receiving the order absolutely dispose of and realize such investments, and, if the amount realized therefrom falls below the amount paid by the credit union for the investments, the board of directors of the credit union are jointly and severally liable for the payment to the credit union of any deficiency.

Exoneration

(2) If any director present at the meeting at which an investment to which subsection 1 applies is authorized, forthwith, or if any director then absent, within fourteen days after he becomes aware of the investment and is able to do so, delivers or sends to the credit union by registered mail his protest against the investment, and within thirty days thereafter, sends a copy thereof by registered mail to the Director, the director thereby and not otherwise exonerates himself from liability.

Call of unauthorized loans

89.—(1) The Director may order a credit union to call any loan it has made not authorized by this Act, the regulations or the by-laws and the credit union shall within sixty days after receiving the direction call the loan, if possible, and, if within that time the full amount of the loan is not repaid, the members of the credit committee are jointly and severally liable for the payment to the credit union of any deficiency upon the maturity of the loan.

Exoneration

(2) If any member of the credit committee present at the meeting at which such loan is authorized, forthwith, or if any credit committee member then absent, within fourteen days after he becomes aware of the loan and is able to do so, delivers or sends to the credit union by registered mail his protest against the loan, and, within thirty days thereafter, sends a copy thereof by registered mail to the Director, the credit committee member thereby and not otherwise exonerates himself from liability.

Term deposits

90. A credit union may by by-law provide for accepting money on deposit at a specified rate of interest for a term not longer than five years.

Negotiable orders

91.—(1) Where the combined share capital and the deposits of a credit union exceed $100,000 and it has appointed an auditor in accordance with this Act and it has an accounting system satisfactory to the Director and its board of directors has so authorized, it may, so long only as the Director approves in writing, permit its members to use negotiable orders for the withdrawal of moneys on deposit.

Reserve

(2) Every credit union to which the Director has given his approval under subsection 1 shall at all times maintain,

(*a*) cash on hand or on callable deposit with a chartered bank in Canada, a loan or trust company registered under *The Loan and Trust Corporations Act*, the Province of Ontario Savings Office, or a league; and

R.S.O. 1970, c. 254

(*b*) unencumbered bonds, debentures or other obligations of or guaranteed by the Government of Canada or by the government of any province and shares of a league to an aggregate of at least 20 per cent of the amount of money deposited with the credit union or league that is withdrawable by negotiable order.

Revocation of approval

(3) The Director may at any time revoke any approval given under subsection 1.

Reserves on deposits

92.—(1) Each credit union shall at all times maintain,

(*a*) cash on hand or on callable deposit with a chartered bank in Canada, a loan or trust company registered under *The Loan and Trust Corporations Act*, the Province of Ontario Savings Office, or a league;

(*b*) unencumbered bonds, debentures or other obligations of or guaranteed by the Government of Canada or by the government of any province or shares of a league to an aggregate of at least 10 per cent of the amount of the deposits, shares, and borrowings of the credit union excluding therefrom deposits subject to withdrawal by negotiable order.

Percentage of cash and callable deposits

(2) Of the amount required to be maintained under subsection 1, at least 10 per cent shall be maintained in cash or on callable deposit as provided in clause *a* of subsection 1.

Prohibition

(3) No credit union shall make any loan or investment other than an investment authorized by clause *b* of subsection 1 until it has satisfied the requirements of subsection 1.

Regulations re reserves

93. The Lieutenant Governor in Council may make regulations prescribing further percentages of the reserves or classes of deposits or investments required to be maintained under sections 91 and 92.

Provision for losses and accrued interest

94.—(1) Every credit union in computing its annual profits shall make full provision for,

(*a*) all doubtful loans, other doubtful receivables, and losses on investments; and

(*b*) all interest accruing on deposits.

Establishment of reserve fund

(2) A credit union may by special resolution establish a reserve fund or funds and may transfer to the reserve fund out of earnings from time to time such amounts as the board of directors may by resolution direct.

Use of guarantee fund

R.S.O. 1970, c. 98

(3) A credit union shall apply its guarantee fund as required by section 30 of *The Credit Unions Act*, as it provided before the 31st day of December, 1972, to ensure provision is made as required by clause *a* of subsection 1 and the surplus then remaining in the guarantee fund shall be held as a reserve fund.

Use of reserve fund

(4) The disposition of any amounts held in a reserve fund established under subsection 3 shall be by special resolution and is subject to the written consent of the Director.

Funding of provision for losses

(5) Where the balance standing to the credit of the guarantee fund on the 30th day of December, 1972, is insufficient to provide the full amount required to be provided for under clause *a* of subsection 1, the credit union may either fund the deficiency over a period not exceeding three years in annual amounts approved by the Director or charge the deficiency against the balance standing to the credit of undivided earnings at that date.

Regulations re reserve for losses

(6) The Lieutenant Governor in Council may make regulations prescribing the minimum amounts that may be considered as making adequate allowances for the provision referred to in clause *a* of subsection 1.

ONTARIO SHARE AND DEPOSIT INSURANCE CORPORATION

Interpretation

95. In sections 96 to 118, "Corporation" means the Ontario Share and Deposit Insurance Corporation.

Corporation established

96.—(1) There is hereby established a corporation without share capital to be known as the Ontario Share and Deposit Insurance Corporation.

Application of R.S.O. 1970, c. 89

(2) *The Corporations Act* does not apply to the Corporation.

Corporation members

(3) The members of the Corporation shall be all credit unions incorporated in Ontario.

Board of directors

97.—(1) The board of directors of the Corporation shall be appointed by the Lieutenant Governor in Council and shall consist of,

(*a*) three persons nominated by a league that has more than fifty members and that is approved by the Lieutenant Governor in Council for the purpose of this section;

(*b*) one person nominated by a league that has fewer than fifty members and that is approved by the Lieutenant Governor in Council for the purpose of this section; and

(*c*) three persons to represent the public and the credit unions who are not members of a league.

Chairman

(2) The board of directors shall elect or appoint from among themselves a chairman.

Functions

98.—(1) The affairs of the Corporation shall be administered by the board of directors.

Chairman to preside

(2) The chairman shall preside at all meetings of the Corporation but, where at any meeting the chairman is absent, one of the directors present thereat who is chosen so to act by the directors present shall preside and has and shall exercise the powers of the chairman.

Secretary and treasurer

(3) The board of directors may appoint a secretary and a treasurer.

Quorum

(4) A majority of the members of the board of directors constitutes a quorum.

Travelling expenses

(5) A member of the board of directors shall be paid by the Corporation out of its income all reasonable travelling and living expenses incurred by him while absent from his ordinary place of residence in the course of his duties as a director and, in addition, may be paid out of income as remuneration for his services and duties such daily or other amount as may be fixed by the board and reported to its members in its annual report.

Annual report

99.—(1) The Corporation shall within four months after the termination of each financial year transmit to its members, the Minister and the Superintendent, an annual report relating to its activities in that year including financial statements of the Corporation and the auditor's report thereon.

(2) The Superintendent shall be deemed to have an interest in the Corporation as representative of all persons who may be claimants against credit unions, and the board of directors, officers and employees of the Corporation shall from time to time furnish the Superintendent with such information and financial statements with respect to the Corporation as the Superintendent may require, and the Superintendent shall make an annual examination and report to the Minister and the Minister shall then lay the annual report of the Corporation and report of the Superintendent before the Assembly if it is in session or, if not, at the next ensuing session. Annual examination of the Superintendent

100. The members of the board of directors shall hold office for a term of three years commencing on the date on which they were appointed and thereafter until their successors are appointed and any casual vacancy occurring shall be filled in accordance with section 97 for the balance of the term of the director whose office became vacant. Term of office

101. The objects of the Corporation are, Objects

(*a*) to accumulate, manage, invest, disburse and pay out a separate fund for each league and a further fund for all independent members, such funds to be accounted for separately and each fund receiving the revenues or assets and bearing all direct charges and an appropriate portion of such other charges as may be applicable to it;

(*b*) to provide, in its discretion, financial assistance, having regard to the liabilities and assets of each fund, for the purpose of assisting any credit union in the appropriate category in its continued operation or in the orderly liquidation of its operations;

(*c*) to provide, for the benefit of persons having shares or deposits with credit unions in Ontario deposit insurance against loss of part or all of such shares or deposits, by making payments to such persons to the extent and in the manner authorized by this Act.

102. The Corporation may do all things necessary or incidental to its objects and in particular, but without limiting the generality of the foregoing, the Corporation may, in furtherance of its objects, Ancillary powers

(*a*) acquire assets from credit unions, make loans or advances to credit unions and take security

therefor and guarantee loans to or deposits with credit unions;

(*b*) require the payment of levies by credit unions for the purpose of establishing and maintaining the assets of the corporation;

(*c*) assume the costs of winding up of credit unions;

(*d*) acquire assets of credit unions from a liquidator or receiver thereof;

(*e*) make an advance or grant for the purpose of paying lawful claims against credit unions in respect of any claims of their members for withdrawal of deposits or share capital and become subrogated as an unsecured creditor for the amount of such advance;

(*f*) borrow money on the credit of the Corporation or on bills of exchange or promissory notes drawn, made, accepted or endorsed by or on behalf of the Corporation and may pledge as security all or any part of the assets of the funds;

(*g*) make or cause to be made such inspections or examinations of credit unions as may be authorized under this Act;

(*h*) declare and pay dividends to its members; and

(*i*) do all such other things, not contrary to this Act, as may be necessary for the exercising of any of the powers of the Corporation.

Powers and duties of Corporation

103. The board of directors shall administer the affairs of the Corporation in all things and make, or cause to be made, for the Corporation any description of contract that the Corporation may by law enter into, and, subject to the approval of the Lieutenant Governor in Council, the Corporation may make by-laws for,

(*a*) the administration, management and control of the property and affairs of the Corporation;

(*b*) the functions, duties and remuneration of all officers, agents and employees of the Corporation;

(*c*) the appointment or disposition of any special committees from time to time created by the Corporation;

(*d*) the appointment of an auditor;

(*e*) determining the seal of the Corporation;

(*f*) the time and place for the holding of meetings of the board of directors and the procedure in all things at such meetings;

(*g*) prescribing standards of sound business and financial practices for credit unions;

(*h*) prescribing the manner in which a credit union may represent that it is a contributor to the Corporation;

(*i*) defining the expression "deposit" for the purpose of deposit insurance;

(*j*) authorizing and controlling the use by credit unions of marks, signs, advertisements or other devices indicating that deposits with credit unions are insured by the Corporation;

(*k*) the conduct in all other particulars of the affairs of the Corporation.

Powers of investigation

104. For the purposes of carrying out any investigation or inquiry authorized by this Act, the Corporation may appoint any person in writing to carry out the investigation or inquiry and the person so appointed shall be given free access to the books, records and documents of the credit union and has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to the investigation or inquiry as if it were an inquiry under that Act.

1971, c. 49

Prohibition as to holding out insured

105.—(1) No person, other than a credit union who is a member of the Corporation, shall by any written or oral representations of any kind advertise or hold out any corporation, society or association as being insured or approved for deposit insurance by the Corporation and a person who contravenes this subsection is guilty of an offence.

Advertising

(2) No credit union shall advertise or hold out by any written or oral representation that it is insured by the Corporation otherwise than by such marks, signs, advertisements or other devices as are authorized by the by-laws of the Corporation and used in the manner and on the occasions prescribed by the by-laws and a credit union who contravenes this subsection is guilty of an offence.

Fiscal year

106. The fiscal year end of the Corporation ends on the 31st day of December in each year.

Investment of funds

107.—(1) The Corporation may, in its discretion, invest any funds not required in carrying out its objectives in the classes of securities in which a credit union may invest its funds under section 79 and subject to the restrictions, limitations and prohibitions contained in section 80.

Idem

(2) Notwithstanding subsection 1, the Corporation shall at all times maintain more than 50 per cent of the book value of its total assets invested in,

(*a*) unencumbered debentures, bonds, stocks or other securities of or guaranteed by the Government of Canada or of or guaranteed by any province of Canada;

(*b*) the bonds, debentures or other evidences of indebtedness issued or guaranteed by a municipal corporation in Canada;

(*c*) guaranteed investment certificates issued by a trust company incorporated in Canada if, at the date of investment, the preferred or common shares of the trust company are authorized as investments under section 79;

R.S.O. 1970, c. 254

(*d*) cash on hand or on deposit in a chartered bank or a loan or trust company registered under *The Loan and Trust Corporations Act* or a league, or the Canadian Co-operative Credit Society or other institution that is prescribed by regulation,

except that not more than 20 per cent of the book value of its total assets shall at any one time be invested in any one of investments referred to in clauses *a*, *b*, *c* and *d*.

Duty to insure

108.—(1) The Corporation shall insure each deposit with a credit union, except so much of any one deposit as exceeds $20,000.

How payable

(2) Where the Corporation is obliged to make payment in respect of any deposit insured by deposit insurance, the Corporation, as soon as possible after the obligation arises, shall, in respect of such deposit, make payment to such person as appears entitled thereto by the records of the credit union with whom the deposit was made, by paying such person an amount in money equal to so much of his money as is insured by the Corporation.

(3) Payment under this section by the Corporation in respect of any deposit insured by deposit insurance discharges the Corporation from all liability in respect of that deposit and in no case is the Corporation under any obligation to see to the proper application in any way of the payment so made. Discharge of liability

(4) Where the Corporation makes a payment under this section in respect of any deposit with a credit union, the Corporation is subrogated to the extent of the payment made to all the rights and interest of the depositor as against that credit union. Subrogation

109.—(1) No credit union that is carrying on business in Ontario shall accept deposits or moneys on account of shares after the coming into force of this section unless it is insured by the Corporation from and after that day in accordance with this Act and the by-laws of the Corporation. Insuring credit unions

(2) Where a credit union commences business in Ontario after the day on which this section comes into force, the deposits with the credit union shall be insured by the Corporation in accordance with this Act and the by-laws of the Corporation from and after the day the credit union commences business. Idem

(3) Where a credit union becomes insured with the Corporation, the Corporation shall issue to the credit union a certificate of deposit insurance in the form prescribed by the regulations. Certificate

110.—(1) The deposit insurance of a credit union may be cancelled on not less than thirty days notice to the credit union by the Corporation when, Cancellation of deposit insurance

(*a*) the credit union is in breach of the standards of business and financial practices prescribed by the Corporation or any of conditions of a policy of deposit insurance issued to it;

(*b*) the credit union ceases to accept deposits or issue shares; or

(*c*) an order has been made under section 116 for the Corporation to take possession of the credit union.

(2) When the deposit insurance of a credit union is cancelled by the Corporation, the deposits with the credit union on the day the cancellation takes effect, less any withdrawals from such deposits, continue to be insured for a period of Effect of cancellation

two years or, in the case of a term deposit with a remaining term exceeding two years, to the maturity thereof.

Notification to depositors

(3) Where the deposit insurance of a credit union has been cancelled, the credit union shall notify its depositors of that fact and shall cease to accept deposits from the date of cancellation forward.

Public notice

(4) The Corporation may, in such manner as it considers expedient, give public notice of the cancellation of deposit insurance of a credit union if, in the opinion of the Corporation, the public interest requires that such notice be given.

Assessment from league

111.—(1) The Corporation shall assess and collect during its first year of operation from each league an amount equal to 1 per cent of the aggregate total share capital and deposits of each credit union that is a member of the league at the end of the fiscal year of the league immediately preceding the assessment and the league is entitled to recover an appropriate amount from each of its members.

Assessment from credit unions outside league

(2) The Corporation shall assess and collect during its first year of operation from every credit union that is not a member of a league an amount equal to 1 per cent of the total share capital and deposits of the credit union at the end of the fiscal year of the credit union immediately preceding the assessment.

Annual assessments

(3) The Corporation shall in each year thereafter assess and collect from such credit union, directly or through a league, in each year an amount equal to 1 per cent of the increase of its share capital and deposits.

Extra-ordinary assessment

(4) Notwithstanding subsection 3, the Corporation may assess and collect from every credit union, directly or through a league, such further amount, based on the total amount of the shares and deposits of the credit union as at the end of the fiscal year immediately preceding the assessment, as the Corporation considers necessary to replace any advances or payments made by the Corporation in the exercise of its powers under this Act.

Idem

(5) For the purposes of the assessment referred to in subsection 4, the Corporation shall maintain separate funds for each league and a further fund to encompass the activities of all credit unions that do not belong to a league and each such assessment shall be fixed by the Corporation having regard to the financial position of each fund.

(6) All amounts assessed by the Corporation against a credit union or league for the purposes of this Act shall be deemed to be a debt owing to the Corporation and the amount thereof, together with any interest levied by the Corporation as an overdue charge is recoverable by action in any court of competent jurisdiction. Assessment of debt

(7) A credit union shall charge any assessment levied under subsection 4 as an expense, but, notwithstanding subsection 6, a credit union may treat any other assessment levied under this section as an investment, the value whereof shall be adjusted from time to time in accordance with the financial position of the appropriate fund accumulated by the Corporation. Assessment to be treated as an expense

(8) Where in any year its earnings have exceeded its expenses, the Corporation may in its discretion declare a dividend to all credit unions participating in that fund of an amount not more than such excess. Dividends

(9) On the dissolution of a credit union, the Corporation shall repay to it an amount equal to its assessments paid under subsection 1, 2 or 3, adjusted in accordance with the financial position of the appropriate fund, and for this purpose the Corporation's evaluation of the financial position of the fund shall be conclusive. Replacement on dissolution

112. Notwithstanding anything in this Act, the Corporation may remit or defer the collection of any assessment made by the Corporation subject to the approval of the Director and upon such terms and conditions as he may direct. Repayments

113.—(1) The Corporation shall maintain an account for each fund to be known as the accumulated net earnings to which shall be credited all earnings including realized profits on the sale of securities and to which shall be charged all expenses including operating and administrative expenses, costs of examinations and inspections of credit unions, losses and specific provisions for losses and losses on sales of securities. Accumulated net earnings

(2) The accumulated net earnings for each fund shall be reported as a separate item in any statement of assets and liabilities of the Corporation and shown as an addition to or a deduction from each fund. Separate item in report

114.—(1) For the purposes of the Corporation, the affairs of each credit union shall be examined by a person provided for under this section at least once in each year, and a copy Annual examination of credit unions

of such examination shall be forthwith transmitted by the examiner to the Corporation and the Director.

Idem

(2) The annual examination shall be made,

(*a*) where the credit union is a member of a league, by the league;

(*b*) where the credit union is not a member of a league, by the Director,

and the cost shall be borne by the Corporation, except that the Corporation may, in place of an examination made under clause *a* or *b*, accept the report of the annual examination of the auditor of the credit union.

Examination of leagues

(3) The Director shall make the annual examination of each league at the expense of the Corporation, and shall give a copy of his report to the Corporation.

Contents of examiner's report

115.—(1) The person examining the affairs of a credit union under section 114 shall include in the report whether or not, in his opinion, there has been any change in the circumstances of the credit union that might materially affect the financial position of the credit union and particularly, without limiting the generality of the foregoing, whether or not, in his opinion,

(*a*) the assessment return made by the Corporation and in which payment to the Corporation was based are correct;

(*b*) the operations of the credit union are being conducted in accordance with sound business and financial practices; and

(*c*) the credit union is in a satisfactory financial condition.

Idem

(2) Each report shall further state whether or not, in the opinion of the examiner under section 114, there has been any contravention of the provisions of this Act and shall be served on the credit union.

Order taking over management

116.—(1) Where the Corporation has received a report under sections 114 and 115, that the affairs of a credit union are not in a satisfactory financial condition, and has given the credit union an opportunity to be heard and after such further inquiry and investigation as the Corporation sees fit to make, the Corporation agrees with the report, the Corporation by order, shall itself or by some other person named in

the order, forthwith take possession of the property of such credit union and conduct its business and take such steps as in the Corporation's opinion may be taken toward the removal of the causes and conditions which have made such proceedings necessary, and for such purposes and without limiting the generality of the foregoing,

(*a*) the Corporation, or person named in the order, has all the powers of the board of directors of the credit union;

(*b*) the Corporation, or person named in the order, has power to exclude from the credit union its officers, directors, servants and agents from the property and business of the credit union; and

(*c*) the Corporation, or person named in the order, has power to carry on, manage and conduct the operations of the credit union and in the name of the credit union to preserve, maintain, realize, dispose of and add to the property of the credit union, to amalgamate with another credit union or to sell to another credit union all or part of its assets, subject to section 130 or 131 to receive the incomes and revenues of the credit union and to exercise all the powers of the credit union.

Idem, upon request

(2) Upon the request of a credit union, the Corporation may with respect to such credit union exercise the powers mentioned in subsection 1.

Termination of order

117. If at any time the Corporation considers that the affairs of the credit union have been placed in a satisfactory financial condition, the Corporation may return possession of the property of the credit union to it, and, upon such return, the order and the powers of the Corporation under which the Corporation took possession of the property of the credit union terminate.

Review of order

118.—(1) A credit union may apply to the Commercial Registration Appeal Tribunal for a review of any order of the Corporation under subsection 1 of section 116 within thirty days after the making of the order and the delivery of a copy thereof to an officer of the credit union.

Stay

(2) The order of the Corporation takes effect immediately, but the Tribunal may grant a stay until the review is disposed of.

Hearing

(3) The Tribunal shall fix a time and place for a hearing of the application and shall at least ten days before the day

fixed cause notice thereof to be served upon the applicant, the Corporation, the Director and any other person appearing to the Tribunal to have an interest in the application.

Parties

(4) Every person upon whom notice of the hearing is served and any other person added by the Tribunal are parties to the proceedings.

Powers of Tribunal

(5) The Tribunal shall hold the hearing and may by order direct the Corporation to take such action as the Tribunal considers proper or to refrain from taking any action specified in the order and thereupon the Corporation shall act accordingly.

Further decision

(6) Notwithstanding the order of the Tribunal, the Corporation has power to make any further reports and orders on new material or where there is a material change in the circumstances, and any such further order is subject to review under this section.

WINDING UP

Interpretation

119. In sections 120 to 128, "contributory" means a person who is liable to contribute to the property of a credit union in the event of the credit union being wound up under this Act.

Voluntary winding up

120.—(1) Where the members of a credit union by a special resolution require the credit union to be wound up, the credit union may be wound up voluntarily.

Appointment of liquidator

(2) At such meeting, the members shall appoint one or more persons, who may be directors, officers or employees of the credit union or a league, as liquidator of the estate and effects of the credit union for the purpose of winding up its affairs and distributing its property, and may at that or any subsequent general meeting fix his remuneration and the costs, charges and expenses of the winding up.

Publication of notice of winding up

(3) A credit union shall file a copy of the resolution requiring the voluntary winding up of the credit union with the Director within ten days after the resolution has been passed and shall publish a notice of the resolution in *The Ontario Gazette* within twenty days after the resolution has been passed and in a newspaper having a general circulation in the locality in which the head office of the credit union is situate.

Vacancy in office of liquidator

(4) Where in a voluntary winding up a vacancy occurs in the office of liquidator by death, resignation or other-

wise, the members by a majority of the votes cast at a general meeting called for that purpose may elect a liquidator to fill the vacancy.

Removal of liquidator

(5) The members of the credit union may by a majority of the votes cast at a general meeting called for that purpose remove a liquidator previously appointed and in such case shall appoint another liquidator in his stead.

Commencement of winding up

(6) A voluntary winding up commences at the time of the passing of the resolution requiring the winding up.

Credit union to cease undertaking

(7) Where a credit union is being wound up voluntarily, the credit union shall, from the date of the commencement of the winding up, cease to carry on its undertaking, except in so far as may be required for the beneficial winding up thereof, and notwithstanding that it may be otherwise provided by its charter or by-laws, its corporate existence and all its corporate powers continue until the affairs of the credit union are wound up.

No proceeding against credit union without leave

(8) After the commencement of a voluntary winding up, no action or other proceedings shall be commenced against the credit union and no attachment, sequestration, distress or execution shall be put in force against the estate or effects of the credit union except by leave of the court and subject to such terms as the court imposes.

Liquidator to take custody

(9) Upon his appointment, the liquidator shall take custody and control of all property, rights and privileges of the credit union or to which the credit union appears to be entitled and shall take all necessary steps to wind up the credit union.

Liquidator to file with Director

(10) Within sixty days after his appointment, the liquidator shall prepare a statement of the assets, debts and liabilities of the credit union and shall file the statement with the Director.

List of contributories and calls

(11) Upon a voluntary winding up, the liquidator,

(*a*) shall settle the list of contributories;

(*b*) may, before he has ascertained the sufficiency of the property of the credit union, call on all or any of the contributories for the time being settled on the list of contributories, to the extent of their liability, to pay any sum that he considers necessary to satisfy the liabilities of the credit union, and the costs, charges and expenses of winding up and for the

adjustment of the rights of the contributories among themselves;

(*c*) a list of contributories settled by the liquidator is admissible in evidence as *prima facie* proof of the liability of the persons named therein to be contributories.

Meetings of credit union during winding up

(12) The liquidator may, during the continuance of the voluntary winding up, call general meetings of the members of the credit union for the purpose of obtaining their approval by resolution or for any other purpose as he thinks fit.

Arrangements with creditors

(13) The liquidator, with the approval of a resolution of the members of the credit union passed in general meeting, may make such compromise or other arrangement as the liquidator thinks expedient with any creditor or person claiming to be a creditor or having or alleging that he has a claim, present or future, certain or contingent, liquidated or unliquidated, against the credit union or whereby the credit union may be rendered liable.

Power to compromise with debtors and contributors

(14) The liquidator may, with the approval of a resolution of the members of the credit union passed in general meeting, compromise all debts and liabilities capable of resulting in debts and all claims, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist between the credit union and any contributory, alleged contributory or other debtor or person who may be liable to the credit union and all questions in any way relating to or affecting the property of the credit union, or the winding up of the credit union upon the receipt of such sums payable at such times and generally upon such terms as are agreed, and the liquidator may take any security for the discharge of such debts or liabilities and give a complete discharge in respect thereof.

Account to be made by liquidator

(15) The liquidator shall make up an account showing the manner in which the winding up has been conducted and the property of the credit union disposed of, and thereupon shall call a general meeting of the members of the credit union for the purpose of having the account laid before them and hearing any explanation that may be given by the liquidator and with the approval of a majority of the votes within ten days after the holding of the meeting cast at the meeting, the liquidator shall send a notice to the Director stating that the meeting was held, the date thereof and requesting dissolution.

Director to recommend dissolution

(16) The Director, upon being satisfied that the affairs of the credit union have been duly liquidated, may in

writing recommend to the Minister that the credit union be dissolved.

(17) The Minister may by order declare the credit union to be dissolved on such date as the order fixes and shall cause notice of any such dissolution of the credit union to be given in *The Ontario Gazette* and to the Director. Dissolution

121.—(1) A credit union may be wound up by order of the court, Winding up by court order

(*a*) where the members by a majority of the votes cast at a general meeting called for that purpose, pass a resolution authorizing an application to be made to the court to wind up the credit union;

(*b*) where proceedings have been commenced to wind up the credit union voluntarily and it appears to the court that it is in the interest of contributories and creditors that the proceedings should be continued under the supervision of the court;

(*c*) where it is proved to the satisfaction of the court that the credit union, though it may be solvent, cannot by reason of its liabilities continue its business and that it is advisable to wind it up; or

(*d*) where in the opinion of the court it is just and equitable for some reason other than the bankruptcy or insolvency of the credit union that it should be wound up.

(2) A winding up order may be made upon the application of the credit union or a member or, where the credit union is being wound up voluntarily, upon the application of the Director, liquidator or contributory or of a creditor having a claim of $200 or more. Who may apply

(3) Except where the application is made by the credit union, four days notice of the application shall be given to the credit union. Notice to credit union

(4) Except where the application is made by the Director, four days notice of the application shall be given to the Director. Notice to Director

(5) The court may, Power of court

(*a*) make the order applied for;

(*b*) dismiss the application with or without costs;

(*c*) adjourn the hearing conditionally or unconditionally;

(*d*) make an interim or other order as it considers appropriate; or

(*e*) refer the proceedings for the winding up to an officer of the court for inquiry and report and may authorize the officer to exercise such powers of the court as are necessary for the reference.

Appointment of liquidator

(6) The court making the winding up order may appoint one or more persons as liquidator of the estate and effects of the credit union for the purpose of winding up its affairs and distributing its property.

Remuneration

(7) The court may at any time fix the remuneration of the liquidator and the costs, charges and expenses of the winding up.

Vacancy

(8) Where a liquidator who is appointed by the court dies or resigns or the office becomes vacant for any reason, the court may fill the vacancy.

Removal

(9) The court may by order, for cause, remove a liquidator appointed by it and appoint another liquidator in his stead.

Notice of appointment

(10) A liquidator appointed by the court shall forthwith give notice to the Director and the Minister of the court order respecting the winding up and shall publish the notice in *The Ontario Gazette*.

Commencement of winding up

(11) Where a winding-up order is made by the court without prior voluntary winding-up proceedings, the winding up shall be deemed to commence at the time of the service of the notice of the application upon the Director.

Proceedings in winding up after order

(12) Where a winding-up order has been made by the court, proceedings for the winding up of the credit union shall be taken in the same manner and with the like consequences as are provided for a voluntary winding up, except that,

(*a*) the list of contributories shall be settled by the court unless it has been settled by the liquidator before the winding-up order; and

(*b*) all proceedings in the winding up are subject to the order and direction of the court.

Review by court

(13) Where the list of contributories has been settled by the liquidator before the winding-up order, it is subject to review by the court.

Meeting of members may be ordered

(14) Where a winding-up order has been made by the court, the court may direct meetings of the members of the credit union to be called, held and conducted in such manner as the court thinks fit for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting and to report the results of it to the court.

Order for delivery of property

(15) Where a winding-up order has been made by the court, the court may require any contributory for the time being settled on the list of contributories, or any director, employee, trustee, receiver, banker, agent or officer of the credit union, to pay, deliver, convey, surrender or transfer forthwith, within such time as the court directs, to the liquidator any money, books, papers, registers and other records, estate or effects that are in his hands and to which the credit union is, *prima facie,* entitled.

Inspection of documents and records

(16) Where a winding-up order is made by the court, the court may make an order for the inspection of the books, papers, registers and other records of the credit union by its creditors and contributories, and any documents and records in the possession of the credit union may be inspected in conformity with the order.

Proceedings against credit union after order

(17) After the commencement of a winding up by order of the court,

(*a*) no action or other proceedings shall be commenced or continued against the credit union; and

(*b*) no attachment, sequestration, distress or execution shall be carried out against the estate or effects of the credit union,

except by leave of the court and subject to such terms as the court may impose.

Provision for discharge of liquidator and distribution by the court

(18) Where the realization and distribution of the property of a credit union being wound up under an order of the court has proceeded so far that in the opinion of the court it is expedient that the liquidator should be discharged and that the property of the credit union remaining in his hands

can be better realized and distributed by the court, the court may make an order discharging the liquidator and for payment, delivery and transfer into court, or to such officer or person as the court directs, of such property, and it shall be realized and distributed by or under the direction of the court among the persons entitled thereto in the same way as nearly as may be as if the distribution were being made by the liquidator and the court may make an order directing how the documents and records of the credit union and of the liquidator are to be disposed of, and may order that they be deposited in court or otherwise dealt with as the court considers appropriate.

Order for dissolution

(19) The court at any time after the affairs of the credit union have been fully wound up may, upon the application of the liquidator or any other person interested, make an order dissolving it, and it is dissolved on the date fixed in the order.

Notice to Director

(20) The person on whose application the order was made shall, within ten days after it was made, file with the Director a certified copy of the order and the Director shall cause notice of the dissolution to be made in *The Ontario Gazette*.

Dissolution by the Minister

122.—(1) The Director, after the credit union has been given an opportunity to be heard by the Director, may recommend to the Minister that an order be made dissolving a credit union if he is satisfied that,

(*a*) its incorporation was obtained by fraud or mistake;

(*b*) it exists for an illegal purpose;

(*c*) the number of its members is reduced to fewer than twenty;

(*d*) it is not carrying on business or is not in operation; or

(*e*) it has contravened any of the provisions of this Act or the regulations.

Notice to credit union

(2) Where the Director recommends to the Minister that an order be made dissolving a credit union, a copy of his recommendations and the reasons therefor shall be delivered to the credit union.

Submissions to Minister

(3) The credit union may, within fifteen days after receiving the copy of recommendations and reasons of the Director

under subsection 2, make written submissions to the Minister in respect thereof.

Order for dissolution

(4) After considering the recommendations of the Director and the submissions, if any, of the credit union, the Minister may, in his discretion, order that the credit union be dissolved and, if necessary, shall appoint a liquidator to carry out the dissolution.

Liquidation

(5) The liquidator shall proceed to wind up the credit union and subsections 7 to 17 of section 120 apply thereto, except that no approval of the members of the credit union is required thereunder.

Director to report

(6) The Director upon being satisfied that the affairs of the credit union have been duly liquidated shall so report to the Minister.

Order declaring dissolution

(7) The Minister may by order declare that the credit union has been dissolved on such date as the order fixes and shall cause notice of the dissolution to be given in *The Ontario Gazette*.

Liability of members to creditors

123.—(1) Notwithstanding the dissolution of a credit union, each of the members among whom its property has been distributed other than the refunds of deposits, remains liable to its creditors to the extent of the amount received by him upon the distribution, and an action in a court of competent jurisdiction to enforce such liability may be brought against him within two years from the date of the dissolution and not thereafter.

Action against one member as representing class

(2) Where there are numerous members, the court referred to in subsection 1 may permit an action to be brought against one or more members as representatives of the class and, if the plaintiff establishes his claim as creditor, may make an order of reference and add as parties in the referee's office all such members as are found, and the referee shall determine the amount that each should contribute towards the plaintiff's claim and may direct payment of the sums so determined.

Forfeiture of undisposed property

124. Subject to section 123, any real or personal property of a credit union that has not been disposed of at the date of its dissolution is forfeit to the Ontario Share and Deposit Insurance Corporation.

Responsibilities of liquidator

125. Upon a winding up of a credit union,

(*a*) the liquidator shall apply the property of the credit

union in satisfaction of all its debts, obligations and liabilities, and, subject thereto, shall distribute any remaining property rateably among the members according to their rights and interests in the credit union;

(*b*) in distributing the property of the credit union, debts due to the employees of the credit union for services performed due at the commencement of the winding up or within one month before, not exceeding three months wages and accumulated sickness benefits or vacation pay accrued for not more than twelve months, shall be paid in priority to the claims of the ordinary creditors, and such persons shall rank as ordinary creditors for any additional amount of their claims for wages;

(*c*) all the powers of the board of directors of a credit union being wound up cease upon the appointment of a liquidator except to the extent that the liquidator may permit the continuance of these powers for the purpose of assisting the winding up proceedings.

Distribution of property R.S.O. 1970, c. 470

126. Section 53 of *The Trustee Act* applies *mutatis mutandis* to liquidators.

Payment of costs and expenses

127. The costs, charges and expenses of the winding up including the remuneration of the liquidator are payable out of the property of the credit union in priority to all other claims.

Powers of liquidator

128.—(1) A liquidator may,

(*a*) bring or defend any action, suit or prosecution, or other legal proceedings, civil or criminal, in the name and on behalf of the credit union;

(*b*) carry on the business of the credit union so far as may be necessary for the beneficial winding up of the credit union;

(*c*) sell the real and personal property of the credit union by public auction or private sale;

(*d*) borrow money on behalf of the credit union as may be necessary for the winding up of the credit union;

(*e*) draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the credit union;

(*f*) raise upon the security of the property of the credit union such moneys as may be required;

(*g*) take out in his official name, letters of administration of the estate of any deceased contributory and in his official name, do any other act that may be necessary for obtaining payment of any money due from a contributory or from his estate that cannot conveniently be done in the name of the credit union;

(*h*) do and perform all acts and other things and execute under the corporate seal or otherwise all documents in the name and on behalf of the credit union as may be necessary for winding up the affairs of the credit union and distributing its property;

(*i*) engage the services of a solicitor to assist him in the performance of his duty;

(*j*) employ an agent to do any business that the liquidator is unable to do himself;

(*k*) claim and, where necessary, prove any claim against the estate of a contributory for any debt or liability to the credit union;

(*l*) receive dividends in the distribution of an estate of a contributory in respect of any debt or liability mentioned in clause *k*;

(*m*) compromise all calls, and liabilities to call, debts and liabilities capable of or resulting in debts, and all claims, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or alleged as subsisting between the credit union and any other person;

(*n*) do and execute all such other things as are necessary for winding up the affairs of the credit union and distributing its property.

Bills of exchange deemed drawn in the course of business

(2) The execution, endorsement or making of all agreements, contracts, bills of exchange or other documents by a liquidator on behalf of a credit union has the same effect with respect to the rights and liabilities of the credit union as if the agreements, contracts or bills of exchange or other documents had been executed, endorsed or made by or on behalf of the credit union in the course of carrying on its business.

Where approval required

(3) The liquidator shall not exercise power granted under clause *a*, *d*, *f*, *m* or *n* of subsection 1,

(*a*) in the case of a voluntary winding up, unless he has obtained the approval in writing of the Director; or

(*b*) in the case of a winding up by order of the court, unless he has obtained the approval of the court.

Notice of liability of contributory

(4) The liability of a contributory is a debt accruing due from him at the time when his liability commenced, but payable at the time when calls are made for enforcing the liability.

Who liable in case of death

(5) Where a contributory dies before or after he is placed on the list of contributories, his personal representative, in administering the estate of the contributory, is liable to contribute to the property of the credit union in discharge of the liability of the deceased contributory and shall be a contributory accordingly.

Examination of persons as to estate

(6) The court may, at any time after the commencement of the winding up, summon to appear before the court or liquidator, any director, manager, employee or officer of the credit union, or any other person known or suspected to have in his possession any of the estate or effects of the credit union, or alleged to be indebted to the credit union, or any person whom the court thinks capable of giving information concerning the dealings, estate or effects of the credit union.

Damages against delinquent directors, etc.

(7) Where, in the course of the winding up of a credit union, it appears that a person who has taken part in the formation or promotion of the credit union or any past or present director, manager, officer, employee, liquidator or receiver of the credit union has misapplied or retained in his own hands, or become liable or accountable for money of the credit union, or has committed any misfeasance or breach of trust in relation to the credit union, the court may, on the application of a creditor, member, director, liquidator, or contributory, inquire into the conduct of that person and order him to restore the money so misapplied or retained, or for which he has become liable or accountable together with interest at such rate as the court considers just or to contribute such sum to the property of the credit union by way of compensation in respect of the misapplication, retention, misfeasance or breach of trust as the court considers just.

(8) Where a credit union has been wound up under this Act and is about to be dissolved, the books, registers and other records and papers of the credit union and of the liquidator may be disposed of in such manner as the Director may order, in the case of voluntary winding up, or as the court may order in the case of winding up under court order. Disposal of records

(9) The Lieutenant Governor in Council may make regulations respecting the procedure to be followed in a winding up, and, unless otherwise provided by this Act or by those regulations, the practice and procedure in a winding up under the *Winding-up Act* (Canada) apply. Regulations R.S.C. 1970, c. W-10

129. Where proceedings are taken under the *Winding-up Act* (Canada) in respect of a credit union, the secretary of the credit union shall send notice thereof to the Director by registered mail. Notice of winding-up proceedings

AMALGAMATIONS

130.—(1) Any two or more credit unions may amalgamate and continue as one credit union. Amalgamation of credit unions

(2) The credit unions proposing to amalgamate shall enter into an agreement for the amalgamation prescribing the terms and conditions of the amalgamation, the mode of carrying the amalgamation into effect, and, in particular, the agreement shall set out, Amalgamation agreement

(*a*) the name of the amalgamated credit union;

(*b*) the limitation on membership in the amalgamated credit union;

(*c*) the name in full, callings and places of residence of the first directors of the amalgamated credit union;

(*d*) the time and manner of election of subsequent directors of the amalgamated credit union;

(*e*) the par value of each share of the amalgamated credit union;

(*f*) the manner of converting the share capital of each of the amalgamating credit unions into that of the amalgamated credit union;

(*g*) such other details as are necessary to perfect the

amalgamation and to provide for the subsequent management and operation of the amalgamated credit union.

Filing of agreement

(3) Within one month after the agreement is signed, the parties shall file with the Director, in triplicate, true copies of the amalgamation agreement.

Submission to members of credit unions

(4) The agreement is subject to the approval of the Director, and to adoption by a vote of two-thirds of the votes cast at a meeting of each of the amalgamating credit unions called for the purpose of considering the agreement within one month after the approval of the Director is given and, when so adopted, the fact shall be certified upon the agreement by the secretary of each of the amalgamating credit unions under the corporate seal.

Application for certificate of amalgamation

(5) If the agreement is adopted in accordance with subsection 3, the amalgamating credit unions may apply jointly to the Minister for a certificate of amalgamation.

Certificate of amalgamation

(6) The Minister may, in his discretion, issue a certificate of amalgamation, and on and after the date of the certificate such amalgamating credit unions are amalgamated and are continued as one credit union under the name set forth in the certificate, and the amalgamated credit union possesses all the property, rights, privileges and franchises and is subject to all the liabilities, contracts, disabilities and debts of each of the amalgamating credit unions.

Notice

(7) The Minister shall cause notice of the issue of the certificate of amalgamation to be given in *The Ontario Gazette* and to the Director.

Sale and purchase of assets

131.—(1) A credit union may sell all or any part of its assets to another credit union or it may purchase all or any part of the assets of another credit union in accordance with this section.

Agreement

(2) The agreement of purchase and sale is subject to the approval of the Director.

Purchase price

(3) The purchasing credit union may assume, as part of the purchase price, any or all of the liabilities of the selling credit union and may pay the balance in cash or by the issue of shares to the selling credit union or the members thereof whether or not such members are members of the purchasing credit union.

Approval by members

(4) The agreement as approved by the Director is subject

to the approval of the members of each of the credit unions by at least a two-thirds vote of the members present at each meeting, and the secretary of each credit union shall certify on the agreement that it has been so approved and shall forward a copy of the agreement so certified to the Director.

Effect of approval

(5) Upon the approval of the members of each of the credit unions, the agreement is binding on each of the credit unions and the sale shall thereafter be completed as of the effective date specified in the agreement, which shall be a date subsequent to the approval by the members of each of the credit unions.

Effective date

(6) In the event the agreement does not specify an effective date, the Director may fix a date upon which it will become effective.

Where all assets disposed of

(7) If the selling credit union has disposed of all its assets under the agreement, it shall cease to carry on business on the effective date of the agreement, except for the purpose of winding up its affairs, and it shall dissolve as soon as possible thereafter.

REORGANIZATION

Amendment of Articles

Amendments

132.—(1) Subject to sections 133 and 134, a credit union may, from time to time, amend its articles of incorporation to,

(*a*) limit or otherwise vary its powers;

(*b*) change its name;

(*c*) provide for any other matter that is authorized by this Act to be set out in the articles or that could be subject to a by-law of the credit union.

Authorization

(2) An amendment under subsection 1 shall be authorized by special resolution and such further authorization as the by-laws provide.

Articles of amendment

133. The credit union shall deliver to the Minister, within six months after the special resolution has been confirmed by the members, articles of amendment in duplicate, executed under the seal of the credit union and signed by two officers, or by one director and one officer, of the credit union and verified by affidavit of one of the officers or directors signing the articles of amendment, setting out,

(*a*) the name of the credit union;

(*b*) a certified copy of the special resolution;

(*c*) that the amendment has been duly confirmed and authorized as required by section 132; and

(*d*) the date of the confirmation of the special resolution by the members.

Certificate of amendment

134.—(1) If the articles of amendment conform to law, the Minister shall, when all prescribed fees have been paid,

(*a*) endorse on each duplicate of the articles of amendment the word "Filed" and the day, month and year of the filing thereof;

(*b*) file one of the duplicates in his office; and

(*c*) issue to the corporation or its agent a certificate of amendment to which he shall affix the other duplicate.

Effect of certificate

(2) The amendment becomes effective upon the date set forth in the certificate of amendment and the articles of incorporation are amended accordingly.

Restatement of Articles

Restatement of articles

135.—(1) Subject to subsections 2 and 3, a credit union may at any time restate its articles of incorporation as theretofore amended.

Filing of restatement

(2) The credit union shall deliver to the Minister the restated articles in duplicate, executed under the seal of the credit union and signed by two officers, or by one director and one officer, of the credit union and verified by affidavit of one of the officers or directors signing the restated articles, setting out,

(*a*) all the provisions that are then set out in the original articles of incorporation as theretofore amended; and

(*b*) a statement that the restated articles correctly set out without change the corresponding provisions of the original articles as theretofore amended.

Certificate of restatement

(3) If the restated articles of incorporation conform to law, the Minister shall, when all prescribed fees have been paid,

(*a*) endorse on each duplicate of the restated articles the word "Filed" and the day, month and year of the filing thereof;

(*b*) file one of the duplicates in his office; and

(*c*) issue to the credit union or its agent a restated certificate of incorporation to which he shall affix the other duplicate.

Effect of certificate

(4) The restated articles of incorporation become effective upon the date set forth in the restated certificate and supersede the original articles of incorporation and all amendments thereto.

RETURNS AND INSPECTIONS

Annual statements

136.—(1) A credit union shall, not later than four months after the end of its fiscal year, deliver to the Director, in the form prescribed by the regulations, an audited statement as to its receipts and expenditures, assets and liabilities, and the auditor's report, if any, and the statement shall also contain such other information as to compliance with this Act and the regulations as the Director requires.

Information for Director

(2) A credit union shall furnish the Director with such statements with respect to its business, finances and other affairs and with such other information as he requires and the board of directors, officers and employees shall cause their books and records to be open for inspection and otherwise facilitate any examination.

Verification

(3) The statement and other information required shall be certified by the supervisory committee and shall be verified by the affidavit of the president and of the treasurer or manager.

Inspection by appointee of Director

137. When the Director is required or authorized by this Act to make an examination, inspection or investigation, he may appoint in writing a duly qualified member of his staff to make such examination, inspection or investigation on his behalf.

Examination

138.—(1) The Director or any person authorized in writing by the Director shall review the annual statements received by him and he shall be given such additional information as he requires by both the Ontario Share and Deposit Insurance Corporation and the credit union and he may visit the head office of each credit union and he may inspect and examine into the conditions and affairs of any

credit union and shall be given access to all books, records and other documents and may make such inquiries as are necessary to ascertain its condition and ability to provide for the payment of its liabilities as they become due, and whether or not it has complied with this Act.

Report to Corporation

(2) Where the Director considers it necessary and believes on reasonable and probable grounds that a credit union is unable to provide for the payment of its liabilities as they become due he shall immediately report thereon in writing to the Ontario Share and Deposit Insurance Corporation.

Further examination

(3) Where the Director believes on reasonable and probable grounds that a credit union has failed to comply with the provisions of this Act or the regulations and it is expedient to make a further examination into the affairs of a credit union, the Director may, in his discretion, visit or cause a member of his staff to visit any office of the credit union to inspect and examine into its affairs and to make such further inquiries as the Director may require.

Material to be furnished on inspection

(4) For the purpose of the examination referred to in subsection 5, the credit union shall prepare and submit to the Director such statements with respect to its business, finances or other affairs, in addition to the statement mentioned in section 136, as the Director may require, and the board of directors, officers, agents and servants of the credit union shall cause its books to be open for inspection and shall otherwise facilitate such examination.

Examination under oath

1971, c. 49

(5) Upon such inspection or examination, the Director, or any person authorized by him, has the powers of a Commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to the inquiry as if it were an inquiry under that Act.

Prohibition against accepting deposits

139.—(1) Where it appears to the Director from an examination of the condition and affairs of a credit union that the assets are shown on the statement mentioned in section 136 at an amount greater than the true value, he may require the credit union to set aside out of earnings such additional reserves as he considers necessary, and, where in his opinion the value of the assets of the credit union is less than its liabilities, including the deposits and share accounts of its members, the Director may prohibit the credit union from taking further deposits or payments to its members, or may limit such payments for such period as he considers necessary to protect the interests of the members,

and he may take such other action as he considers necessary for the protection or in the interest of the members, including the calling of meetings of members and having his representative attend the meeting for the purpose of explaining the situation to the members.

Suspension of business

(2) The Director may order a credit union to discontinue doing business for such time as he determines if, after an inspection thereof, he is satisfied that the continuance in business of the credit union is not in the members interest and shall report forthwith to the Ontario Share and Deposit Insurance Corporation the order made and the reasons therefor.

EXTRA-PROVINCIAL CREDIT UNIONS

Extra-provincial credit unions

140.—(1) A credit union incorporated under the laws of a province other than Ontario may register under this Act for such limited purposes as may be approved by the Director other than the taking of deposits or the making of loans.

Register

(2) The Director shall maintain a register called the "Extra-Provincial Credit Unions Register" wherein shall be recorded the names of the credit unions registered and the limited purposes to which they are subject in Ontario.

Condition precedent to licence under R.S.O. 1970, c. 89

(3) No credit union that is an extra-provincial corporation within the meaning of *The Corporations Act* shall be licensed under that Act as an extra-provincial corporation unless it has been first registered under this Act by the Director.

OFFENCES

Offences re records and inspections

141. Every person who,

(*a*) refuses or neglects to make an entry in any record required by this Act, the regulations or the by-laws to be kept;

(*b*) refuses to produce any document or record of a credit union for the purpose of any inspection, examination or investigation authorized by this Act, the regulations or the by-laws;

(*c*) obstructs any person authorized by this Act, the regulations or the by-laws to inspect, examine or investigate the affairs of the credit union,

is guilty of an offence.

Offence, false statements

142.—(1) Every person who makes or assists in making a statement in any document required by or for the purposes of this Act or the regulations or the by-laws of a credit union that, at the time and in the light of the circumstances under which it was made, is false or misleading in respect of any material fact or that omits to state any material fact the omission of which makes the statement false or misleading is guilty of an offence.

Defence

(2) No person is guilty of an offence under subsection 1 if he did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading.

Failure to file annual return

143.—(1) A credit union that is in default of filing the annual statement required by section 136 is guilty of an offence and upon summary conviction is liable to a fine of not more than $50 for each day such default continues.

Failure to pay Corporation

(2) A credit union that is in default of payment of any assessment made on it by the Ontario Share and Deposit Insurance Corporation is guilty of an offence and upon summary conviction is liable to a fine of not more than $50 for each day such default continues.

General penalty

144.—(1) Every person who is guilty of an offence under this Act for which no penalty is otherwise provided is liable on summary conviction to a fine of not more than $2,000 or, if such person is a corporation, to a fine of not more than $10,000.

Officers of corporations

(2) Where a corporation is guilty of an offence referred to in subsection 1, every director or officer thereof who authorized, permitted or acquiesced in the offence is also guilty of the offence and on summary conviction is liable to a fine of not more than $2,000.

REGULATIONS

Regulations

145. The Lieutenant Governor in Council may make regulations,

(*a*) prescribing the procedure and forms to be used under this Act;

(*b*) requiring and prescribing the fees payable for incorporation of credit unions and credit union leagues, for amalgamation of credit unions, for changing the name of credit unions, upon filing

any articles of incorporation, return or other document required or permitted to be filed under this Act, for searches, and for certified copies of certificates of incorporation and other documents;

(*c*) respecting the holding of first meetings, the notice calling the meeting, the quorum, and the business to be transacted;

(*d*) governing the operations and powers of branches of credit unions;

(*e*) governing credit unions and leagues of credit unions;

(*f*) prescribing any matter required by this Act to be prescribed by the regulations.

MISCELLANEOUS

Transitional continuance, of letters patent, etc.

146.—(1) The letters patent, supplementary letters patent or memorandum of association of any credit union to which this Act applies continue and shall be deemed to be amended in accordance with the provisions of this Act on the day that it comes into force and any additions or amendments to or deletions from any provision in the memorandum of association, letters patent or supplementary letters patent of a credit union shall be made in accordance with this Act.

of redeemable securities

(2) Any investment in a redeemable security made by a credit union prior to the date of the coming into force of this Act that, but for this Act, would have been an authorized investment may be disposed of prior to maturity or held to maturity and any realized gains or losses may be brought through income accounts over the period to maturity.

Repeals

147. The following are repealed:

1. *The Credit Unions Act*, being chapter 96 of the Revised Statutes of Ontario, 1970.

2. *The Credit Unions Amendment Act, 1972*, being chapter 172.

3. *The Credit Unions Amendment Act, 1974*, being chapter 39.

4. Paragraph 10 of the Schedule to *The Age of*

Majority and Accountability Act, 1971, being chapter 98.

5. Section 38 of *The Government Reorganization Act, 1972*, being chapter 1.

Commencement

148. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

149. This Act may be cited as *The Credit Unions Act, 1976*.

The Credit Unions Act, 1976

1st Reading

June 3rd, 1976

2nd Reading

3rd Reading

The Hon. S. B. Handleman
Minister of Consumer and
Commercial Relations

(*Government Bill*)

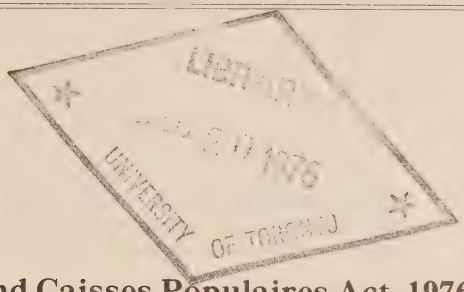
1976

Ontario. Legislative Assembly
Government Publications

BILL 97

Government Bill

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976



The Credit Unions and Caisses Populaires Act, 1976

THE HON. S. B. HANDLEMAN
Minister of Consumer and Commercial Relations

(Reprinted as amended by the Administration of Justice Committee)

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Explanatory Note

The Bill re-enacts *The Credit Unions Act* for the purpose of making the law governing the incorporation and regulation of credit unions, caisses populaires and credit union leagues complete and self-contained, as recommended by the Select Committee on Company Law.

Principal changes include the following:

1. The provisions of *The Business Corporations Act* are in most respects adopted for application to credit unions and leagues.

2. All by-laws of credit unions require approval.

3. Provision is made for branches and branch meetings.

4. Corporate members are recognized and capacity for members who are minors to deal directly.

5. Second mortgage loans and term deposits are authorized.

6. Investment provisions are fully set out.

7. The Ontario Share and Deposit Insurance Corporation is established, financed by assessments from credit unions, to provide deposit insurance with incidental powers for annual examinations.

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BILL 97 **1976**

The Credit Unions and Caisses Populaires Act, 1976

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

INTERPRETATION

1.—(1) In this Act, Interpretation

(*a*) "articles of incorporation" or "articles" means the original or restated articles of incorporation, articles of amalgamation, articles of amendment, memorandum of association, a special Act or other instrument by which a credit union is incorporated and includes any amendment thereto;

(*b*) "auditor" means a person who is a public accountant licensed under *The Public Accountancy Act*; R.S.O. 1970, c. 373

(*c*) "by-law" means a by-law approved under this Act, and includes any amendment or revocation of a by-law approved under this Act;

(*d*) "capital" means the outstanding amount that has been received from members on account of shares;

(*e*) "certificate of incorporation" includes the memorandum of association, a special Act or any other instrument by which a credit union is incorporated;

(*f*) "court" means the Supreme Court of Ontario;

(*g*) "credit union" means a corporation incorporated as a credit union or caisse populaire under this Act or a predecessor of this Act;

(*h*) "debt obligation" means a bond, debenture, note or other similar obligation of a corporation, whether secured or unsecured;

(*i*) "deposit" includes all sums placed on deposit with a credit union;

(*j*) "Director" means the Director of Credit Unions of the Ministry of Consumer and Commercial Relations;

(*k*) "financial statement" means a financial statement referred to in section 71;

(*l*) "league" means a corporation incorporated as a credit union league or federation under this Act or a predecessor of this Act;

(*m*) "member" means a person who is a member or enrolled as a member of a credit union under this Act, the articles and the by-laws of the credit union governing membership;

(*n*) "Minister" means the Minister of Consumer and Commercial Relations;

(*o*) "officer" means the president, any vice-president, treasurer, secretary, manager, assistant treasurer, assistant secretary, assistant manager and any employee who has authority to approve loans and any employee of a credit union who reports directly to the board of directors;

(*p*) "personal representative" where used with reference to holding shares or having deposits in that capacity means an executor, administrator, guardian, tutor, trustee, receiver or liquidator, or the committee of or curator to a mentally incompetent person;

(*q*) "regulations" means the regulations made under this Act;

(*r*) "related person", where used to indicate a relationship with any person, means any spouse, son or daughter of that person, or any relative of that person or of his spouse, son or daughter who has the same home as that person;

(*s*) "special resolution" means a resolution that is not effective until it is passed by the board of directors of the credit union and confirmed, with or without variations, by at least two-thirds of the votes cast at a general meeting of the members of the credit union duly called for that purpose;

(*t*) "Superintendent" means the Superintendent of Insurance;

(*u*) "surplus" means the aggregate balances of undivided earnings, statutory reserve and other reserves.

Joint shares

(2) For the purposes of this Act, two or more persons holding the same share or shares jointly shall be considered as one member.

Director of Credit Unions

2.—(1) There shall be a Director of Credit Unions appointed by the Lieutenant Governor in Council, who shall exercise the powers and shall perform the duties conferred or imposed on him by this Act or the regulations under the supervision of the Superintendent.

Application of R.S.O. 1970, c. 89

(2) *The Corporations Act* does not apply to credit unions or credit union leagues.

INCORPORATION

Incorporation

3.—(1) A credit union may be incorporated under this Act by articles of incorporation for the objects stated in section 11 and the incorporation is subject to the approval of the Minister.

Application

(2) Any number of natural persons, not fewer than twenty, who are of the age of eighteen years or more, may apply to be incorporated as a credit union by signing and delivering to the Minister, in duplicate, articles of incorporation in the form prescribed by the regulations together with two copies of the proposed by-laws of the credit union.

Articles of incorporation

(3) The articles of incorporation shall set out:

1. The name of the credit union to be incorporated.

2. The place in Ontario where the head office of the credit union is to be located giving the municipality and the county or district or where the head office is to be located in a territory without municipal organization, the geographic township and district, if any.

3. The name of each of the incorporators and residence address of each.

4. The number of directors of the credit union, which shall be not fewer than five, and the name and residence address, giving the street and number, if any, of each person who is a first director of the credit union.

5. Any other matter required by this Act or the regulations to be set out in the articles.

Idem

(4) The articles may set out any provision that is authorized by this Act to be set out in the articles or that could be the subject of a by-law of the credit union.

Affidavits

(5) The signature of each incorporator and each first director and the fact that each incorporator and each first director is of the age of eighteen years or more shall be verified by affidavit.

Director may direct amendment of by-laws

(6) The proposed by-laws shall be in accordance with section 16 and if the Director finds the proposed by-laws repugnant to this Act he may direct an amendment before the application is proceeded with.

Report to Minister

(7) The Director shall inquire into the circumstances, sufficiency and regularity of the articles of incorporation and accompanying proposed by-laws delivered to the Minister and may require any matter to be verified under oath and shall report thereon to the Minister.

Reasons

(8) Where the Director reports to the Minister that the articles of incorporation should not be filed, his report shall include the reasons therefor and a copy of his report shall be delivered to the incorporators.

Submissions to Minister

(9) The incorporators may, within fifteen days after receiving the report and reasons of the Director under subsection 8, make written submissions to the Minister in respect thereof.

Issuance of certificate of incorporation

(10) After considering the report of the Director and the submissions, if any, of the incorporators, the Minister may, in his discretion and after all prescribed fees have been paid,

(*a*) endorse on the duplicate of the articles the words "Filed" and the day, month and year of the filing thereof;

(*b*) file one of the duplicates in his office; and

(*c*) issue to the incorporators or their agent a certificate of incorporation to which he shall affix the other duplicate.

Effect of incorporation

(11) A credit union comes into existence upon the date set forth in its certificate of incorporation and the certificate of incorporation, the articles of incorporation, and the by-laws

of the credit union, together with this Act, constitute the charter of the credit union.

(12) A certificate of incorporation is conclusive proof that all conditions precedent required to be performed by the incorporators have been complied with and that the credit union has been incorporated under this Act, except in a proceeding under section 122. Notice

4.—(1) No credit union shall be incorporated under a name identical with that of any other credit union or of any corporation or organization or under a name so nearly resembling that of any other credit union, corporation or organization as, in the opinion of the Minister, to be likely to deceive or under a name that may otherwise, in the opinion of the Minister, be objectionable on public grounds. Name

(2) If a credit union, through inadvertence or otherwise, has acquired a name contrary to subsection 1, the Minister may, after he has given the credit union an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the credit union to the name specified in the certificate, and upon issuance of the certificate of amendment, the articles are amended accordingly. Change if objectionable

5.—(1) The name of a credit union shall include the words "credit union" or "caisse populaire" as part thereof. Use of "credit union"

(2) The name of the credit union shall have the words "Limited" or "Limitée", or "incorporated" or "incorporée", or its corresponding abbreviation "Ltd", "Ltée", or "Inc" as the last word thereof. Use of "Limited"

(3) Notwithstanding subsection 1, a credit union incorporated under a predecessor of this Act may continue to use the name under which it was incorporated. Exception from subs. 1

6. Notwithstanding section 5, a credit union may use its name in such form and in such language as the articles provide and as the Minister approves. Use of name

7. A change of name of a credit union does not affect its rights and obligations. Effect of change of name

8. Any person, not being a credit union or league to which this Act applies, who carries on business under a name or title in which the words "credit union" or "caisse populaire" are used is guilty of an offence. Use of words "credit union"

9.—(1) A credit union shall have a seal, which shall be adopted and may be changed by resolution of the directors. Seal

(2) The name of the credit union shall appear in legible characters on the seal. Idem

Head office

10.—(1) A credit union shall at all times have its head office in Ontario at the place where its articles provide.

Change

(2) A credit union may by by-law change the geographic location of its head office to another place in Ontario if such change would better serve its purpose and objects.

Objects of credit unions

11.—(1) The articles of a credit union shall state its objects and purposes as being the promotion of co-operative enterprise, the facilitating of the accumulation of savings and the creation of a source of credit for its members at conscionable rates of interest and the provision of full financial services for its members and every credit union shall be deemed to have such objects in its articles.

Ancillary powers

(2) For the purpose of carrying out its objects, subject to the other provisions of this Act, the regulations, the articles and the by-laws of the credit union, every credit union has power as incidental and ancillary to its objects,

1. to receive moneys on deposit from members and as payment for shares;

2. to make loans to members, with or without security;

3. to make loans to other credit unions, where the loans are approved by the Ontario Share Deposit Insurance Corporation;

4. to deposit moneys with, invest in shares of, or make loans to, any league;

5. to make donations and gifts out of the surplus income or any undivided earnings for the purpose of advancing the interest of the credit union or of credit unions generally and for charitable purposes;

6. to purchase, lease, or take in exchange, hire or otherwise acquire any personal property and any right or privilege the credit union considers necessary or convenient for the purpose of the credit union;

7. to invest funds of the credit union;

8. where authorized to do so by a special resolution, to sell, lease, exchange or otherwise dispose of all or substantially all the property of the credit union for such consideration as the credit union considers appropriate;

9. to construct, maintain and alter any buildings or works necessary for its objects;

10. to lease and, where authorized by by-law, to acquire by purchase or otherwise and hold any real property or interest therein necessary for its present or future use and occupation or for carrying on its undertaking, and, when no longer necessary therefor, to sell, alienate or convey it;

11. to take, hold, alienate, realize on, or otherwise dispose of any real or personal property that has been mortgaged or pledged to the credit union by way of security for, or conveyed to it in satisfaction of loans made in the course of business or otherwise purchased for the purpose of avoiding a loss to the credit union;

12. to draw, make, accept, endorse, execute, discount and issue promissory notes, bills of exchange, bills of lading, warrants and other negotiable or transferable instruments;

13. subject to such conditions as are prescribed by the regulations, to establish and operate branch offices to provide credit union services;

14. to pay all costs and expenses of, or incidental to, the incorporation and organization of the credit union;

15. to establish and support or aid in the establishment and support of or the subscription to, associations, institutions, funds or trusts for the benefit of employees or former employees of the credit union or its predecessors, or the dependants or connections of such employees or former employees, and grant pensions and allowances, and make payments towards insurance or for any object similar to those set forth in this paragraph, and to subscribe or guarantee money for charitable, benevolent, educational or religious objects or for any exhibition or for any public, general or useful objects;

16. to adopt means of making known the services of the credit union, and in particular by advertising, by purchase and exhibition of works of art or interest, by publication of books and periodicals or by granting prizes, rewards and making donations;

17. to deposit money in chartered banks, the Province of Ontario Savings Office, or loan companies and trust companies registered under *The Loan and Trust Corporations Act*; R.S.O. 1970, c. 254

18. to contract and sue and be sued in the corporate name;

19. to purchase group insurance for its members;

20. to perform any of the things authorized by this section as principal or agent and either alone or in conjunction with others;

21. to perform all such other things as are incidental or conducive to the attainment of the objects and the exercise of the powers of the credit union;

22. to have perpetual succession;

23. to carry on any other business capable of being conveniently carried on in connection with its business or likely to enhance the value of or make profitable any of its property or rights;

24. to acquire and hold shares in any other company having objects altogether or in part similar to those of the credit union or carrying on any business capable of being conducted so as to benefit the credit union;

25. to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with the property of the credit union in the ordinary course of its business;

26. to provide safekeeping facilities and services for personal property;

27. to provide services for the collection and payment of moneys from and on behalf of its members;

28. to provide such programs and services for its members as in the opinion of the board of directors may assist the members to meet their financial or social needs;

29. subject to the approval of the Director, to accept custody of assets for specific purposes or under specific terms and conditions and to act as an agent

to carry out such purposes, such purposes to include, but not be restricted to, the custody of funds deposited under registered retirement savings plans and registered home ownership savings plans.

(3) Any of the powers set out in subsection 2 may be withheld or limited by the articles. Limitation of powers

(4) Every credit union may exercise its powers beyond the boundaries of Ontario to the extent to which the laws in force where the powers are sought to be exercised permit, and may accept extra-provincial powers and rights. Power to act outside Ontario

LEAGUES

12.—(1) Ten or more credit unions may be incorporated as a league or federation for the object and purpose of, Leagues

(*a*) protecting and advancing the credit unions that are members of the league;

(*b*) providing encouragement and assisting in programs and activities contributing to the growth and development of member credit unions;

(*c*) conducting training programs for the general improvement of managers, employees and members of the board of directors and committees of member credit unions;

(*d*) arranging for pension plans, group bonding and group insurance of all kinds for the officers, employees and members of credit unions and assisting in repayment of loans made by credit unions to their members;

(*e*) receiving moneys from their member credit unions or the Ontario Share Deposit Insurance Corporation, either as payment on shares or as deposits;

(*f*) making loans to credit unions that are members of the league;

(*g*) providing services to or for its member credit unions that, in the opinion of the directors of the league, are incidental or conducive to the sound operation or to the attaining of the purposes of its members.

(2) Any competent person authorized by a league may examine into the affairs of any credit union that is a member of the league and for such purpose he shall be given access Examination by league

to all books, records and other documents of the credit union and he may make whatever inquiries are necessary to ascertain its true condition and its ability to provide for the payment of its liabilities as they become due, and the officers and employees of the credit union shall facilitate him in his examination and inquiry.

Act to apply to leagues

(3) The provisions of this Act applicable to credit unions apply *mutatis mutandis* to leagues and their incorporation except where inconsistent with this section, but the Lieutenant Governor in Council may by regulation declare that any provision of this Act does not apply to leagues.

Ancillary powers

(4) Every league has power as incidental and ancillary to its objects,

(*a*) to apply to and enter into any agreement with the Canada Deposit Insurance Corporation, the Ontario Share and Deposit Insurance Corporation, the Government of Canada, the Government of Ontario, a chartered bank or other corporation or person, to obtain loans or other financial assistance;

(*b*) to act as agent or subagent for primary or secondary distribution of bonds, debentures or other evidences of indebtedness of or guaranteed by the Government of Canada or any province or municipal corporation in Canada and for that purpose trade in such bonds, debentures or other evidences of indebtedness to the extent necessary;

(*c*) to become a member of, buy shares in, deposit money with or borrow money from any other league or any co-operative credit society or association as defined in the *Co-operative Credit Associations Act* (Canada) or any other like institution incorporated under the laws of Canada or any province;

R.S.C. 1970, c. C-29

(*d*) when authorized by the Director, to establish, arrange for and maintain trust funds for the benefit of the member credit unions;

(*e*) to invest in the fully paid shares of,

(i) any corporation registered under *The Loan and Trust Corporations Act*, or

R.S.O. 1970, c. 254

(ii) with the approval of the Superintendent, any company incorporated to carry on any other business reasonably ancillary to the business of a credit union or a league,

provided that if such investment exceeds 30 per cent of the voting common shares of a corporation, the league shall own at least 51 per cent of the voting common shares of the corporation;

(*f*) to provide such other services as may be authorized by the regulations.

Application of R.S.C. 1970, c. C-29

(5) A league may accept and exercise all rights, powers, privileges and immunities conferred on it by the *Co-operative Credit Associations Act* (Canada).

Withdrawal

(6) Any credit union that is a member of a league may withdraw from membership if authorized by resolution passed by a majority of the votes cast at a general meeting duly called for the purpose.

CONTRACTS

Acting outside powers

13.—(1) No act of a credit union and no transfer of real or personal property to or by a credit union, otherwise lawful, that is heretofore or hereafter done or made, is invalid by reason of the fact that the credit union was without capacity or power to do such act or make or receive such transfer, but such lack of capacity or power may be asserted,

(*a*) in a proceeding against the credit union by a member under subsection 2;

(*b*) in a proceeding by the credit union, whether acting directly or through a receiver, liquidator, trustee or other legal representative or through members in a representative capacity, against a director or officer or former director or officer of the credit union; or

(*c*) as cause for the cancellation of the certificate of incorporation of the credit union.

Restraining order

(2) A member of a credit union may apply to the court for an order to restrain the credit union from doing any act or transferring or receiving the transfer of real or personal property on the ground that the credit union lacks capacity or power for the purpose, and the court may, if it considers it to be just and equitable, grant an order prohibiting the credit union from doing the act or transferring or receiving the transfer of the real or personal property, but, where the act or transfer sought to be restrained or prohibited is being or to be done or made under a contract to which the credit union is a party,

(*a*) all the parties to the contract shall be parties to the proceeding;

(*b*) the court in granting the order may set aside the contract and allow the credit union or other parties to the contract, as the case may be, such compensation as may be equitable for the loss or damage sustained by any of them from the granting of the order and setting aside of the contract, other than anticipated profits from the contract.

Contracts in writing under seal

14.—(1) A contract that if entered into by an individual person would by law be required to be in writing and under seal may be entered into on behalf of a credit union in writing under the seal of the credit union.

Contracts in writing under seal

(2) A contract that if entered into by an individual person would by law be required to be in writing signed by the parties to be charged therewith may be entered into on behalf of a credit union in writing signed by any person acting under its express authority.

Parol contracts

(3) A contract that if entered into by an individual person would by law be valid although made by parol only and not reduced into writing may be entered into by parol on behalf of a credit union by any person acting under its express authority.

Prior consent of Director

15. A credit union shall not acquire, purchase or lease real estate for its own use where the cost of such real estate or building or of the lease over its duration is in an amount equal to more than 8 per cent of the total share capital and deposits of a credit union without the prior written consent of the Director.

BY-LAWS

Extent of by-laws

16.—(1) The directors may pass by-laws not contrary to this Act or to the articles to regulate,

(*a*) the fees, terms and conditions of admission to, and withdrawal, suspension and expulsion from, membership in the credit union;

(*b*) the allotment and recording of shares, the maximum number that may be alloted to any member, the payment for shares and the withdrawal or transfer of shares;

(*c*) the terms, conditions and limitations under which deposits may be made with or withdrawn from the credit union;

(*d*) the terms, conditions and limitations for loans made by the credit union and the interest thereon;

(*e*) the time and place of and the notice and the record date for the determination of members entitled to vote to be given for the holding of meetings of members and of the board of directors, the quorum of meetings of members and the procedure and language to be used in all matters relative to the operation of the credit union;

(*f*) the time for and manner of election of directors, and the remuneration of directors;

(*g*) the appointment, remuneration, functions, duties and removal of officers and employees of the credit union and the security, if any, to be given by them to it;

(*h*) the purposes for which the profits of the credit union may be appropriated or distributed by way of rebate of interest on loans, by dividends or otherwise;

(*i*) where the credit union is a member of a league, a yearly assessment of its members to be paid to the league to assist in its financing;

(*j*) the conduct in all other particulars of the affairs of the credit union.

Membership in league

(2) Subject to clause *i* of subsection 1, a credit union may become a member of a league by resolution passed by a majority of the votes cast at a general meeting duly called for the purpose.

Remuneration of directors

17.—(1) A by-law relating to the remuneration of directors may provide that the board of directors by resolution shall fix the remuneration and period for which it is to be paid.

Delegation to board

(2) A by-law may provide that the board of directors may by resolution exercise the powers referred to in clause *c*, *d*, *g* or *h* of subsection 1 of section 16.

Passing of by-laws

18.—(1) No by-law is effective until it is,

(*a*) passed by the board of directors of a credit union;

(*b*) confirmed, with or without variation, by at least two-thirds of the votes cast at a general meeting of the members of the credit union duly called for that purpose, or such greater proportion of the votes cast as the articles provide; and

(*c*) approved by the Director in the manner prescribed in this section.

Submission to Director

(2) Upon the confirmation of a by-law under clause *b* of subsection 1, the board of directors shall forward to the Director two copies thereof signed by two officers or one officer and one director.

Approval by Director

(3) The Director shall signify his approval by certifying the approval on one copy of the by-law with the date of the approval and returning it to the credit union.

Amendments upon approval

(4) Any amendment required by the Director as a condition of his approval may be made by the board of directors unless the amendment alters the intent of the by-law.

Copies of by-laws

19. A copy of the by-laws of a credit union shall be delivered by the credit union to a member on demand on payment of a fee fixed by the by-laws, which shall not exceed the amount prescribed therefor by the regulations.

CAPITAL

Capital

20.—(1) The capital of a credit union shall be divided into shares with par value and the amount thereof shall be determined by the by-laws of the credit union, but the par value of each share shall in no case exceed $10.

Capital, how increased and diminished

(2) The subscribed capital of a credit union may, subject to the by-laws, be increased by payment for shares by members, and may be diminished by withdrawal of such payments by members.

Fully paid shares only

(3) No share in a credit union shall be allotted until it is fully paid for and a share is not fully paid until payment in cash therefor has been received by the credit union.

No commission on shares

(4) No commission, discount, allowance, or other compensation shall be paid or allowed by a credit union in consideration of the subscription for or sale of any of its shares.

Shares are personal property

(5) The shares of a credit union are personal property.

Additional shares

(6) The payment on account of shares by a member and the receipt thereof by a credit union shall be deemed to be an allotment of such shares to the members.

Member's liability for shares

(7) A member is not liable to the credit union for shares subscribed for in excess of the amount actually paid thereon.

(8) Where the board of directors determines that the credit union has suffered an impairment of capital, the board may by resolution fix the proportion of money invested in shares that may be withdrawn, and so long as any impairment of capital exists, may from time to time change the proportion that may be withdrawn. Where capital impaired

(9) No member of a credit union shall withdraw any portion of the money invested in shares in excess of the proportion specified in the resolution under subsection 8, or set off against any debts owing by him to the credit union a greater proportion of the money invested in shares than is specified in the resolution. Idem

(10) No resolution passed under subsection 8 applies to money invested in shares after the date of the resolution. Idem

BORROWING

21.—(1) Subject to the qualifications, limitations and restrictions in this Act, the board of directors of a credit union, when authorized by by-law, may, Borrowing by-law

(*a*) borrow money by way of loan, exclusive of money received on deposit, at such rates of interest and upon such terms as the board of directors may from time to time determine in an amount, exclusive of money on deposit, not exceeding 25 per cent of the paid-in capital, deposits and surplus of the credit union, but when specifically authorized by by-law, the total amount borrowed, exclusive of money received on deposit, may be an amount not exceeding 50 per cent of the total of the paid-in capital, deposits and surplus of the credit union;

(*b*) subject to clause *a*, charge, mortgage, hypothecate or pledge all or any currently owned or subsequently acquired real or personal, movable or immovable property of the credit union, including book debts, rights, powers and franchises and undertaking, to secure any debt obligation or any money borrowed, or other debt or liability of the credit union.

(2) Clause *a* of subsection 1 does not apply to a league. Leagues excepted

22.—(1) A credit union shall not borrow by the issue of a debenture. Not to issue debentures

(2) Subsection 1 does not apply to a league. Leagues excepted

23. The Director may from time to time inquire into the borrowing of a credit union and may limit the authority of the board of directors of a credit union to further borrow by giving notice of the limitation by registered mail to the Limitation by the director

board setting forth his reasons for limiting the borrowing powers and a credit union shall not exercise its borrowing powers in excess of any limitation imposed by the Director.

REGISTERS

Register of members

24.—(1) Every credit union shall keep a register of members and shares.

Certificate as evidence

(2) A statement as to,

(*a*) the names and addresses of the members and the number of shares held by each member;

(*b*) the date on which the name of any person was entered in the register as a member; or

(*c*) the date on which any person ceased to be a member,

purporting to be certified by the secretary is, without proof of the office or signature of the secretary, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

Documents to be kept

(3) Every credit union shall keep or cause to be kept the following documents and registers in either English or French only,

(*a*) a copy of its articles;

(*b*) the by-laws and resolutions, including special resolutions, of the credit union;

(*c*) a register of the members of the board of directors, credit committee and supervisory committee, and all officers of the credit union, setting out their names, residence addresses, giving the street and number, if any, and occupations, with the several dates on which they have become or ceased to be a member of such board or committee;

(*d*) a register of all securities held by the credit union;

(*e*) books of account and accounting records with respect to all financial and other transactions of the credit union as may be required by the Director;

(*f*) the minutes of all proceedings at meetings of members, directors and any committees.

MEMBERS

Membership

25. Subject to the provisions of this Act and its articles, membership in a credit union is governed by its by-laws.

Incorporators deemed members

26.—(1) Each incorporator of a credit union who has subscribed for a share in the credit union becomes a member upon the effective date of incorporation and shall be entered upon the register of members.

Subscription deemed application

(2) A subscription for shares in a credit union constitutes an application for membership and the allotment of a share to the applicant constitutes admission to membership.

Applicants for membership

(3) Subject to subsection 1, no person shall become a member of a credit union until his application for membership has been approved by the board of directors or an officer authorized by the board and the applicant has complied fully with the by-laws governing admission of members.

Membership limitation

27.—(1) Subject to subsection 2, the by-laws of every credit union shall provide that the membership of the credit union shall be limited to persons or related persons having a common bond of occupation or association or to persons or related persons residing or working within a municipality, neighbourhood or other reasonably well-defined community.

Removal of limitation

(2) A credit union may apply to the Director for the repeal from its by-laws of the provisions referred to in subsection 1 and the Director, if he is satisfied that the credit union has a sufficient membership, capital and money on deposit and is being operated in a satisfactory manner, may approve the repealing by-law and permit its filing on such terms as the Director sees fit.

Director's approval

(3) The Director shall not approve a by-law of a credit union under subsection 2 unless the credit union proposes to have a full-time management and a self-contained place of business and would be, in his opinion, capable of providing a satisfactory service to its members.

Register of members

28. Every person whose name is registered in the register of members is entitled to,

(*a*) a passbook or other record specifying the amount paid upon shares, deposits and loans by him; and

(*b*) such other information as may be prescribed by the by-laws of the credit union,

and the passbook or other record is admissible in evidence as *prima facie* proof of membership and of the information entered therein.

Voting

29.—(1) A member of a credit union has only one vote.

Proxies permitted

(2) No member of a credit union shall vote by proxy except when such member is a corporation, an unincorporated association or a municipality as defined in *The Municipal Affairs Act*.

R.S.O. 1970, c. 118

Liability of members

30. A member is not responsible for any act, default or liability of the credit union, or for any engagement, claim, payment, loss, injury, transaction, matter or thing relating to or connected with the credit union beyond the amount paid on his share or shares.

Not bound by trust

31. A credit union is not bound to see to the execution of any trust, whether express, implied or constructive to which any share or deposit is subject.

Shares in trust

32. A member, in addition to holding shares in his own name, may subscribe for and hold shares and make deposits in trust for a named beneficiary, and such beneficiary without payment of any entrance fee shall be deemed to be a member of the credit union only for the purpose of qualifying for life insurance under a group policy of insurance purchased by the credit union on the lives of its members and is not entitled to notice of meetings or to vote at meetings.

Joint accounts

33. Two or more members may hold their shares and deposits in a joint account and, in the absence of written notice to the contrary, payment by the credit union to any of such members or to the survivor or any of the survivors of such members of any money standing to the credit of the joint share or deposit account discharges the credit union from any further liability for such payment.

Ages of members

34.—(1) A person under the age of eighteen years may be a member of a credit union, and every such member may enjoy all the rights of a member and execute all instruments and give all acquittances necessary to be executed or given but is not entitled to vote unless permitted to do so by the by-laws.

Right to borrow

(2) Subject to the by-laws, a member under the age of eighteen years does not have the right to borrow any amount in excess of his deposits in the credit union except upon a joint and several promissory note signed by him and by a person eighteen years of age or over.

Deposits

(3) A member under the age of eighteen years may deposit money with a credit union in his own name, and the money so deposited may be repaid to him, and he

may give a valid discharge therefor, notwithstanding his minority.

Corporate and partnership members R.S.O. 1970, cc. 118, 340

35. A corporation including a municipality as defined in *The Municipal Affairs Act*, an unincorporated association or a partnership registered under *The Partnerships Registration Act* may become a member of a credit union on such terms and conditions as are prescribed by the regulations.

Transmission of shares

36.—(1) Subject to section 37 and *The Succession Duty Act*, where a transmission of a share in a credit union takes place by virtue of any testamentary act or instrument, or in consequence of an intestacy, if the probate of the will or letters of administration or document testamentary, or other judicial or official instrument under which the title, whether beneficial or as trustee, or the administration or control of the personal estate of the deceased is claimed to vest, purports to be granted by any court or authority in any country, the probate of will or letters of administration or document testamentary or other judicial or official instrument or an authenticated copy thereof, or an official extract therefrom, may, together with a declaration in writing showing the nature of the transmission and signed and executed by the person claiming by virtue thereof, be produced and deposited with the secretary or officer named by the board of directors of the credit union for the purpose of receiving it.

Proof

(2) The production and deposit specified in subsection 1 shall be sufficient authority to the board of directors to pay the amount or value of any obligation on shares, in pursuance of, and in conformity with the letters probate, letters of administration, or other instrument.

Payment of moneys re deceased member

37.—(1) Where a member of a credit union dies, the credit union may pay,

(*a*) an amount not exceeding an amount prescribed by the regulations out of the amount on deposit in the name of the deceased or for the shares of the deceased; and

(*b*) an amount not exceeding an amount prescribed by the regulations out of any money that is received by the credit union under any policy of insurance on the life of the deceased,

to any person who the board is satisfied, by statutory declaration attested to not sooner than thirty days after the death, is entitled.

Effect of payment

(2) A payment made under subsection 1 discharges any obligation of the credit union or its board of directors in

respect of the money paid but does not affect the right of any other person claiming to be entitled to recover such money from the person to whom it was paid.

Deposits or shares in trust

(3) Where a member of a credit union dies holding shares or money on deposit in his name in trust for a named beneficiary, the credit union may pay the amount of such shares or deposit and any interest thereon to the executor or administrator of the estate of the deceased member, subject to the trusts or, where there is no executor or administrator, to the beneficiary or, where the beneficiary is a minor, to his parent or guardian.

Lien for debt

38. A credit union has a lien on the shares and deposits of a member for any debt due to it by him, and may set off any sum standing to the credit of such member on the books of the credit union in or towards the payment of such debt.

Unclaimed credits

39. Where moneys are held by a credit union for the credit of one of its members by reason of a deposit made or shares held by such member and the credit union is unable after reasonable efforts to locate the person entitled to such moneys, the credit union may pay such moneys to the Treasurer of Ontario and the Treasurer of Ontario may pay such moneys to the person entitled thereto upon satisfactory proof being furnished that he is the person entitled to receive such moneys.

Withdrawal of members

40.—(1) A member of a credit union may withdraw from a credit union at any time by giving notice thereof in accordance with the by-laws.

Idem

(2) A deceased member shall be deemed to have given notice to the credit union of his intention to withdraw on the day of his death.

Payment to withdrawing member

(3) All amounts paid to the credit union on shares and deposits by a withdrawing member shall, after deducting all amounts due from the member to the credit union, be paid to such member within ninety days of his giving notice of his intention to withdraw.

Idem

(4) A withdrawing member is entitled to receive any dividend, interest or rebate of loan interest paid or payable to other members of the credit union as at the date of his withdrawal on the same conditions that the board of directors have made applicable to all members of the credit union.

Notice of withdrawal

(5) Subject to subsection 3, a member who has given

notice of withdrawal, or is expelled from a credit union, has no further rights in the credit union, but he is not, by the withdrawal or expulsion, released from any remaining liability to the credit union.

Extension of time

(6) Where, in the opinion of the board of directors of the credit union, the payments in accordance with subsections 3 and 4 would not be in the best interests of the credit union, the board may by resolution suspend such payments for a period of one year or for such greater period and on such terms and conditions as the Director may approve.

Expulsion of members

41.—(1) Subject to subsection 2, a member may be expelled from membership in a credit union for misconduct in the affairs of the credit union or for failure to abide by the conditions of membership set out in the by-laws by a resolution passed by a majority of the members at a meeting duly called for that purpose.

Notice of misconduct

(2) A resolution under subsection 1 is not valid unless,

(*a*) a charge constituting grounds for expulsion has been made against the member by another member by filing with the board of directors full particulars in writing of such misconduct signed by him;

(*b*) the member charged has been furnished with a copy of the particulars at least four weeks previous to the meeting at which the resolution is to be considered; and

(*c*) an opportunity is given to the member charged to appear either personally or by counsel or his agent to make submissions at the meeting of the members called to consider the resolution expelling him.

Notice of meeting

(3) The notice calling the meeting of members shall state that the charge has been made and specify the names of the members concerned.

Refund to expelled member

(4) A member who is expelled is entitled to a refund of the amount paid on his shares and his deposits with the credit union as well as any dividends, interest or rebate of loan interest paid or payable to other members of the credit union as of the date of his expulsion on the same conditions that the board of directors have made applicable to all members of the credit union.

Representative action

42.—(1) Subject to subsection 2, a member of a credit union may maintain an action in a court of competent

jurisdiction in a representative capacity for himself and all other members of the credit union suing for and on behalf of the credit union to enforce any right, duty or obligation owed to the credit union under this Act or under any other statute or rule of law or equity that could be enforced by the credit union itself, or to obtain damages for any breach of any such right, duty or obligation.

Court order required

(2) An action under subsection 1 shall not be commenced until the member has obtained an order of the court permitting the member to commence the action.

Notice

(3) A member may, upon at least seven days notice to the credit union, apply to the court for an order referred to in subsection 2, and, if the court is satisfied that,

(*a*) the member was a member of the credit union at the time of the transaction or other event giving rise to the cause of action;

(*b*) the member has made reasonable efforts to cause the credit union to commence or prosecute diligently the action on its own behalf; and

(*c*) the member is acting in good faith and it is *prima facie* in the interests of the credit union or its members that the action be commenced,

the court may make the order upon such terms as the court thinks fit.

Costs

(4) At any time or from time to time while an action commenced under this section is pending, the plaintiff may apply to the court for an order for the payment to the plaintiff by the credit union of reasonable interim costs, including solicitor's and counsel fees and disbursements, for which interim costs the plaintiff shall be accountable to the credit union if the action is dismissed on final disposition at the trial or on appeal.

Action not to be discontinued, etc., without court approval

(5) An action commenced under this section shall not be discontinued, settled or dismissed for want of prosecution without the approval of the court and, if the court determines that the interests of the member or any class thereof may be substantially affected by such discontinuance, settlement or dismissal, the court, in its discretion, may direct that notice in manner, form and content satisfactory to the court shall be given, at the expense of the credit union or any other party to the action as the court directs, to the members or class thereof whose interests the court determines will be so affected.

DIRECTORS

43.—(1) Each of the persons named as first directors in the articles of a credit union is a director of the credit union until replaced by a person duly elected or appointed in his stead. First directors

(2) The first directors of a credit union have all the powers and duties and are subject to all the liabilities of directors. Idem

44.—(1) Every credit union shall have a board of directors who shall be elected from its members in the manner provided in its by-laws and who shall hold office for such term as the by-laws provide and until their successors are elected. Election

(2) A credit union may by by-law increase or decrease the number of its directors set out in the articles, subject to the minimum. Change in number

(3) A member entitled to vote at an election of directors, if he votes, shall cast thereat a number of votes equal to the number of directors to be elected, and the member shall distribute the votes among the candidates in such manner as he sees fit, but no candidate shall receive more than one vote from each member. Voting

45.—(1) No person shall be a director of a credit union unless he is a member thereof and of the full age of eighteen years, and, if he ceases to be a member, he thereupon ceases to be a director. Directors to be members

(2) No member shall be a director of a credit union unless he is a Canadian citizen, or is a person lawfully admitted to Canada for permanent residency who is ordinarily resident in Canada. Qualifications

(3) No person shall be a director of a credit union who is a full-time employee of the credit union. Conflict of interest

46.—(1) The board of directors shall manage or supervise the affairs and business of the credit union and perform such duties as prescribed by this Act, the regulations and the by-laws of the credit union. Duties of board

(2) The by-laws may provide for the election and retirement of directors in rotation, but in that case no director shall be elected for a term of more than three years. Election in rotation

(3) A majority of the board of directors constitutes a quorum. Quorum

Continuance in office

(4) If an election of directors is not held within the prescribed period, the directors continue in office until their successors are elected.

Vacancies

(5) Where a vacancy occurs in the board and a quorum of directors remains, the directors remaining in office may appoint a qualified person to fill the vacancy until the next annual meeting of the credit union.

Where no quorum

(6) When there is not a quorum of directors in office, the director or directors then in office shall forthwith call a general meeting of the members to fill the vacancies, and, in default or if there are no directors then in office, the meeting may be called by any member.

Expulsion of directors

47.—(1) When a member of the board of directors fails to attend three consecutive meetings of the board without, in the opinion of the board, having a reasonable cause therefor or fails to perform any of the duties allotted to him as a director, his position on the board may be declared vacant by the remaining directors who may appoint a qualified person to fill the vacancy until the next annual meeting of the credit union.

Removal of directors

(2) The members may, by resolution passed by two-thirds of the votes cast at a general meeting duly called for the purpose, remove a director before the expiration of his term of office, and shall by vote cast at that meeting elect another director in his stead for the remainder of his term.

Notice

(3) The notice calling the meeting of the members referred to in subsection 2 shall specifically state that the purpose of the meeting is to remove the director who is named therein.

Right to make representations

(4) The director has the right at the meeting to make such representations to the members regarding the resolution for his removal as he thinks fit and may be represented by legal counsel or an agent.

CREDIT COMMITTEE

Credit committee

48.—(1) Subject to section 50, every credit union shall have a credit committee who shall be elected from its members in the manner prescribed by its by-laws and who shall hold office for such term as the by-laws provide and until their successors are elected.

Number of members

(2) The credit committee shall consist of the number of members fixed by the by-laws, which shall be not fewer than three.

Qualifications

(3) No person who is a member of the board of directors

or of the supervisory committee or who is an officer of the credit union shall be a member of the credit committee, except that the president may be a member of the credit committee if he is so authorized by by-law.

Age

(4) No member shall be a member of the credit committee unless he is of the full age of eighteen years.

Quorum

(5) A majority of the credit committee, not including the president, constitutes a quorum.

Voting at election

(6) A member entitled to vote at an election of members of the credit committee, if he votes, shall cast thereat a number of votes equal to the number of members of the credit committee to be elected, and the member shall distribute the votes among the candidates in such manner as he sees fit, but no candidate shall receive more than one vote from each member.

Vacancies

(7) Where a vacancy occurs in the credit committee, the board of directors may fill all vacancies until the next annual meeting of the credit union.

Election in rotation

(8) The by-laws of the credit union may provide for the election and retirement of members of the credit committee in rotation, but in that case no member of the credit committee shall be elected for a term of more than three years.

Duties

49.—(1) The credit committee shall consider all applications for loans and within the limits provided in the by-laws approve all loans to members of the credit union and perform such duties as are prescribed by this Act, the regulations and the by-laws of the credit union.

Removal of member

(2) When a member of the credit committee fails to attend three consecutive meetings without, in the opinion of the other members of the committee, having a reasonable cause therefor or fails to perform any of the duties allotted to him as a member of the committee, his position on the committee may be declared vacant by the other members of the committee who may then appoint a qualified person to fill the vacancy until the next annual meeting of the credit union.

Loan officer

50.—(1) The board of directors of a credit union may by by-law appoint one or more persons who are employees of the credit union, to act as a loan officer and perform all or such part of the duties of the credit committee as are specified by the by-law.

May supersede credit committee

(2) If the by-law provides that the person or persons so appointed shall perform all the duties of the credit committee, it shall also provide that as long as the by-law remains in force, it shall not be necessary to elect a credit committee as required by section 48 or that, as long as the by-law remains in force, the credit committee shall have only the powers of an advisory committee.



Officer to approve loan

51.—(1) The credit committee may, upon such terms and conditions as the board of directors may specify, authorize the treasurer, manager or other employee of the credit union to approve loans to a member.



Monthly report

(2) Any person authorized by the credit committee to approve loans under subsection 1 shall submit a written monthly report to the credit committee stating the number of loan applications received, the number of loans granted and the security, if any, obtained for such loans.

Duties of such persons appointed

(3) The responsibilities and duties of any person authorized to approve loans under subsection 1 is concurrent with the responsibilities and duties of the credit committee.

Credit committee reports

52. The credit committee shall hold meetings not more than three months apart, shall keep minutes of its meetings and shall,

(*a*) submit a written report to the board of directors stating the number of loan applications received, the number and category of loans granted, the security obtained for such loans together with a report on applications denied and a report on all loans that are delinquent; and

(*b*) submit a written annual report on such matters to the annual meeting of the credit union.

Removal of member

53.—(1) The members may, by resolution passed by two-thirds of the votes cast at a general meeting duly called for the purpose, remove a member of the credit committee before the expiration of his term of office, and shall by vote cast at that meeting elect another member in his stead for the remainder of his term.

(2) The notice calling the meeting of members referred to in subsection 1 shall specifically state that the purpose of the meeting is to remove the member of the credit committee who is named therein. Notice

(3) The member of the credit committee has the right to make such representations at the meeting regarding the resolution for his removal as he thinks fit, and may be represented by legal counsel or an agent. Right to make representations

SUPERVISORY COMMITTEE

54.—(1) Subject to section 58, every credit union shall have a supervisory committee who shall be elected from its members in the manner prescribed in its by-laws and shall hold office for such term as the by-laws provide and until their successors are elected. Supervisory committee

(2) The supervisory committee shall consist of the number of members fixed by the by-laws, which shall be not fewer than three. Composition

(3) No person who is a member of the board of directors or credit committee or who is an officer of the credit union shall be a member of the supervisory committee. Qualifications

(4) No member shall be a member of the supervisory committee unless he is of the age of eighteen years. Age

(5) A majority of the supervisory committee constitutes a quorum. Quorum

(6) A member entitled to vote at an election of members of the supervisory committee, if he votes, shall cast thereat a number of votes equal to the number of members of the supervisory committee to be elected, and the member shall distribute the votes among the candidates in such manner as he sees fit, but no candidate shall receive more than one vote from each member. Voting at election

(7) Where a vacancy occurs in the supervisory committee, the board of directors may fill all vacancies until the next annual meeting of the credit union. Vacancies

(8) The by-laws of the credit union may provide for the election and retirement of members of the supervisory committee in rotation, but in that case no member shall be elected for a term of more than three years. Election in rotation

55.—(1) The supervisory committee shall examine the books of the credit union, confirm the cash instruments, property and securities of the credit union and confirm the deposits of the members and perform such other duties as Duties

are prescribed by this Act, the regulations and the by-laws of the credit union.

Idem

(2) When a member of the supervisory committee fails to attend three consecutive meetings of the committee without, in the opinion of the supervisory committee, having a reasonable cause therefor, or fails to perform any of the duties allotted to him as a member of the committee, his position on the committee may be declared vacant by the remaining members of the committee who may appoint a qualified person to fill the vacancy until the next annual meeting of the credit union.

Clerks

(3) The supervisory committee may appoint such persons as it considers necessary to assist it in performing its duties, but the remuneration to be paid to such persons is subject to the approval of the board of directors.

Duty when misappropriation, etc.

56.—(1) When the supervisory committee is of the opinion that the funds, securities or other property of the credit union have been misappropriated or misdirected, or in the event that the by-laws of the credit union, this Act or the regulations have been contravened by the board of directors, the credit committee or a member thereof or an officer or employee engaged by the board of directors, the supervisory committee shall forthwith advise the Director and the Ontario Share and Deposit Insurance Corporation in writing.

Audit

(2) The supervisory committee shall appoint an auditor or auditors or a league to assist it in determining whether any of the funds, securities or other property of the credit union have been misappropriated or misdirected and the remuneration of any auditor or league so appointed shall be paid by the credit union and determined by the supervisory committee.

Suspension

(3) In the event of a misappropriation or misdirection or a suspected misappropriation or misdirection as referred to in subsection 1, the supervisory committee may suspend any member of the board of directors or credit committee or any officer or employee without the holding of a general meeting and may appoint another person to perform the duties of the person so suspended, until a new member is duly elected or a new officer or employee appointed.

Meeting of members

(4) The supervisory committee shall forthwith give notice of a general meeting of the members to be held within fourteen days after the suspension under subsection 3.

(5) The supervisory committee shall report to the general meeting all the circumstances of any misappropriation or misdirection of funds, securities or other property and the reasons for any suspension, and the members of the credit union may, by resolution, dismiss from office any person so suspended, and, when the members of the credit union do not so vote to dismiss from office any person so suspended, that person shall be reinstated forthwith. Idem

57.—(1) The supervisory committee shall not meet less frequently than every three months, and, where no auditor has been appointed, shall meet at least every month, and shall at each such meeting examine the affairs of the credit union. Meetings

Report of minutes

(2) The supervisory committee shall keep minutes of its meetings and shall,

(*a*) within seven days of each meeting report the results thereof in writing to the board of directors; and

(*b*) submit a written report to the annual meeting of the members of the credit union.

58.—(1) A credit union may, by by-law, provide for the appointment of an auditor or auditors in addition to or substitution for the supervisory committee and may delegate to such auditor or auditors such part of the duties of the supervisory committee as the by-law provides. Auditors

(2) The board of directors of the credit union may fix the remuneration of the auditor or auditors. Remuneration of auditors

(3) Where a credit union has passed a by-law under subsection 1 appointing an auditor or auditors to perform the duties of the supervisory committee, the by-law may further delegate the remaining powers and duties of the supervisory committee to the board of directors and so long as such by-law remains in force no supervisory committee shall be elected as required by section 54. Delegation of powers to board of directors

59.—(1) The members may, by resolution passed by two-thirds of the votes cast at a general meeting duly called for the purpose, remove a member of the supervisory committee before the expiration of his term of office, and shall by vote cast at that meeting elect another member in his stead for the remainder of his term. Removal of members

(2) The notice calling the meeting of members referred to in subsection 1 shall state that the purpose of the meeting Notice

is to remove the member of the supervisory committee who is named therein.

Right to make representations

(3) The member of the supervisory committee has the right to make such representations to the members regarding the resolution for his removal as he thinks fit, and may be represented by legal counsel or an agent.

OFFICERS

Officers

60.—(1) A credit union shall have a president and secretary and such other officers as are provided for by by-law.

Idem

(2) The board of directors shall elect the president from among themselves.

Remuneration of officers

(3) All payments to officers of a credit union for services rendered shall be approved by its board of directors.

Idem

(4) No officer or employee shall be paid or compensated on any basis that would relate such payment or compensation to the profits of the credit union or to an increase in the assets of the credit union.

Bond on certain officers and employees

61.—(1) Every officer or employee engaged by the board of directors of a credit union who receives or has charge of money shall, before assuming the duties of his office, furnish a bond for the due accounting of moneys received by him and the faithful performance of his duties with such sureties and in such form and amount as the board of directors may determine.

Minimum amount of bond

(2) The Lieutenant Governor in Council may make regulations prescribing the minimum amount of any bond to be provided under subsection 1.

AUDITORS AND FINANCIAL STATEMENTS

Appointment of auditors

62.—(1) The members of a credit union having combined paid-in capital and deposits of more than $500,000 and a credit union permitted to operate with negotiable orders shall,

(*a*) at their first general meeting appoint one or more auditors to hold office until the close of the first annual meeting and, if the members fail to do so, the board of directors shall forthwith make such appointment or appointments; and

(*b*) at each annual meeting appoint one or more auditors to hold office until the close of the next annual meeting and, if an appointment is not so made, the auditor in office continues in office until a successor is appointed.

Idem

(2) The members of any other credit union may appoint an auditor.

Casual vacancy

(3) The board of directors may fill any casual vacancy in the office of auditor, but, while such vacancy continues, the surviving or continuing auditor, if any, may act.

Removal of auditors

(4) The members may, by resolution passed by a majority of the votes cast at a general meeting duly called for the purpose, remove an auditor before the expiration of his term of office, and shall by a majority of the votes cast at that meeting appoint another auditor in his stead for the remainder of his term.

Notice to auditor

(5) Before calling a general meeting for the purpose specified in subsection 4, the credit union shall, fifteen days or more before the mailing of the notice of the meeting, give to the auditor,

(*a*) written notice of the intention to call the meeting, specifying therein the date on which the notice of the meeting is proposed to be mailed; and

(*b*) a copy of all material proposed to be sent to members in connection with the meeting.

Right to make representations

(6) The auditor has the right to make to the credit union three days or more before the mailing of the notice of the meeting, representations in writing concerning his proposed removal as auditor, and the credit union, at its expense, shall forward with the notice of the meeting a copy of such representations to each member entitled to receive notice of the meeting.

Appointment by the director

(7) If for any reason no auditor is appointed, under subsection 1, the Director may require that the board of directors appoint one or more auditors to hold office until the close of the next annual meeting and the board shall establish the remuneration to be paid by the credit union for his or their services.

Notice of appointment

(8) The credit union shall give notice in writing to an auditor of his appointment forthwith after the appointment is made.

Notice of intention

(9) A person, other than an incumbent auditor, may not be appointed auditor at an annual meeting unless notice of an intention to nominate that person to the office of auditor has been given by a member to the credit union not less than fifteen days before the mailing of the notice of the meeting at which the auditor is to be appointed, and, where such notice is given, the credit union shall send a copy of the notice to the incumbent auditor and to the person whom it is intended to nominate and shall give notice thereof to the members of the credit union.

Right to make representations

(10) The incumbent auditor has the right to make to the credit union, three days or more before the mailing of the notice of the meeting representations in writing concerning the proposal not to reappoint him as auditor, and the credit union, at its expense, shall forward with the notice of the meeting, a copy of such representations to each member entitled to receive notice of the meeting.

Persons disqualified as auditors

63.—(1) No person shall be appointed or act as the auditor of a credit union who is a director, officer, or employee of the credit union, or a member of the credit committee or supervisory committee thereof, or who is a partner, employer or employee of any such director, member, officer or employee, or who is a related person to any director or officer of the credit union or to a member of the credit committee or supervisory committee thereof.

Auditors not to be appointed receivers

(2) No person shall be appointed a receiver or a receiver and manager or liquidator of any credit union of which he or any partner or employer of or a related person to him is the auditor or has been the auditor within the two years preceding his appointment as receiver and manager or liquidator.

Trustee in bankruptcy not to be auditor
R.S.C. 1970, c. B-3

(3) No person who is appointed a trustee of the estate of a credit union under the *Bankruptcy Act* (Canada) or any partner or employer of or a related person to him shall be appointed or act as auditor of the credit union.

Annual audit

64.—(1) The auditor shall make such examination as will enable him to report to the members of the credit union as required by subsection 2.

Auditor's report

(2) The auditor shall make a report to the members of the credit union on the financial statement to be placed before the members at its annual meeting in accordance with section 71, and shall state in his report whether in his opinion the financial statement referred to therein presents fairly the financial position of the credit union and the results of its operations for the period under review in

accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period, if any.

Auditor's statement

(3) The auditor shall also report that his examination was made in accordance with generally accepted auditing standards and that accordingly it included such tests and other procedures as he considered necessary in the circumstances.

Qualified report

(4) When the report under subsection 2 does not contain the unqualified opinion required thereby, the auditor shall state in his report the reasons therefor.

Facts discovered after statement

(5) Where facts come to the attention of the officers or board of directors which, if known prior to the date of the last annual meeting of members, would have required a material adjustment to the financial statement presented to such meeting, the officers or board shall communicate such facts to the auditor who reported to the members under this section and the board shall forthwith amend the financial statement and send it to the auditor.

Amendment of auditor's report

(6) On the receipt of facts furnished under subsection 5 or from any other source, the auditor shall, if in his opinion it is necessary, amend his report in respect of the financial statement in accordance with subsection 4 and the board of directors or, if they fail to do so within a reasonable time, the auditor shall mail the amended report to the members.

Right of access

(7) The auditor of a credit union has right of access at all times to all records, documents, accounts and vouchers of the credit union and is entitled to require from the board of directors, officers, employees and members of the credit committee or the supervisory committee of the credit union such information and explanation as in his opinion are necessary to enable him to report as required by subsection 2.

Right to attend meetings

(8) The auditor of a credit union is entitled to attend any meeting of members of the credit union and to receive all notices and other communications relating to any such meeting that a member is entitled to receive, and to be heard at any such meeting that he attends on any part of the business of the meeting that concerns him as auditor.

Member's right to require auditor's attendance

(9) Any member of a credit union who is entitled to vote at meetings of members, may, by notice in writing to the credit union given five days or more before any meeting of

members, require the attendance of the auditor at such meeting at the credit union's expense, and in such event the auditor shall attend the meeting.

Auditor to answer inquiries

(10) At any meeting of members, the auditor, if present, shall answer inquiries directed to him concerning the basis upon which he formed the opinion stated in the report made under subsection 2.

OFFICERS—GENERAL

Standards of care

65. Every director, officer, member of a supervisory committee and member of a credit committee of a credit union shall exercise the powers and discharge the duties of his office honestly, in good faith and in the best interests of the credit union, and in connection therewith shall exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

Validity of acts of officers and directors

66. An act done by a director, member of the supervisory committee, member of the credit committee or officer of a credit union is not invalid by reason only of any defect that is thereafter discovered in his appointment, election or qualification.

Liability

67. The liability imposed by this Act upon a director, member of the credit committee, member of the supervisory committee, officer of a credit union or any person authorized to approve loans under section 51 is in addition to any other liability that is by law imposed upon him.

Indemnity

68.—(1) Subject to subsection 2, the by-laws of the credit union may provide that every director, credit committee member, supervisory committee member or officer may from time to time be indemnified and saved harmless by the credit union from and against,

(*a*) any liability and all costs, charges and expenses that he sustains or incurs in respect of any action, suit or proceeding that is proposed or commenced against him or in respect of anything done or permitted by him in respect of the execution of the duties of his office; and

(*b*) all other costs, charges and expenses that he sustains or incurs in respect of the affairs of the credit union.

Idem

(2) The credit union shall not indemnify any person under subsection 1 in respect of any liability, costs, charges or expenses that he sustains or incurs in or about any action,

suit or other proceeding as a result of which he is adjudged to be in breach of any duty or responsibility imposed upon him by this Act or any other statute unless, in an action brought against him in his capacity of director, credit committee member, supervisory committee member or officer, he has achieved complete or substantial success as a defendant.

Insurance

(3) A credit union may purchase and maintain insurance for the benefit of a director, credit committee member, supervisory committee member or officer thereof, except insurance against a liability, cost, charge or expense incurred as a result of a contravention of section 65.

Disclosure of interest in contracts

69.—(1) Every director, officer, credit committee member or supervisory committee member of a credit union who has, directly or indirectly, any interest in any contract or transaction to which the credit union is or is to be a party, including services rendered in a professional or business capacity, other than a contract limited solely to his remuneration for holding office, or who is, directly or indirectly, the beneficiary of any consideration or benefit as a result of any such contract or transaction to which the credit union is or is to be a party, shall declare his interest in such contract or transaction and the amount of any consideration or benefit of which he is the direct or indirect beneficiary at a meeting of the board of directors, credit committee or supervisory committee, as the case may be, and shall at that time disclose the nature and extent of such interest, to the extent to which such information is within his knowledge or control, and shall not vote and shall not in respect of such contract or transactions be counted in the quorum.

Time for disclosure

(2) The disclosure required by subsection 1 shall be made at the earliest possible meeting after the director, credit committee member or supervisory committee member becomes aware of the potential conflict of interest.

Effect of declaration

(3) If a director, officer, credit committee member or supervisory committee member has made a declaration and disclosure of his interest in a contract or a transaction in compliance with this section and has not voted in respect of the contract or transaction at the meeting at which it was considered and was acting honestly and in good faith at the time the contract or transaction was entered into, he is not by reason only of his holding office accountable to the credit union or to its members for any profit or gain realized from the contract or transaction, and the contract or transaction, if it was in the best interest of the credit union, is not voidable by reason only of his interest therein.

Confirmation by members

(4) Notwithstanding anything in this section, a director, officer, credit committee member or supervisory committee member, if he was acting honestly and in good faith, is not accountable to the credit union or to its members for any profit or gain realized from such contract or transaction by reason only of his holding office, and the contract or transaction, if it was in the best interest of the credit union at the time it was entered into is not by reason only of his interest therein voidable,

(*a*) if the contract or transaction is confirmed or approved by at least two-thirds of the votes cast at a general meeting of the members duly called for that purpose; and

(*b*) if the nature and extent of the interest in the contract or transaction are declared and disclosed in reasonable detail in the notice calling the meeting.

MEETINGS

Notice of meetings

70.—(1) Notice of the time and place for holding a meeting of the members of a credit union shall be given in accordance with the by-laws of the credit union, but in no event shall notice be given later than seven days before the date of the meeting or earlier than fifty days before the date of the meeting.

Idem

(2) Notice of any meeting at which directors are to be elected shall contain the information disclosed by a director under subsection 1 of section 69.

Idem

(3) Notice of a meeting shall be given to each member of a credit union who on the record date for notice appears on the records of the credit union as a member by,

(*a*) sending the notice by prepaid mail to his latest address as shown on the records of the credit union;

(*b*) delivering the notice to him at his place of employment; or

(*c*) publishing the notice in a newspaper which circulates in the community in which the head office of the credit union is located.

Chairman

(4) The president, or in his absence, a vice-president who is a director, shall preside as chairman at a meeting of members, but if there is no president or such a vice-president, or if at a meeting neither of them is present

within fifteen minutes after the time appointed for the holding of the meeting, the members present shall choose a person from among their number to be the chairman.

Annual meeting

71.—(1) The first and every successive meeting of a credit union shall be held at such time and place in Ontario as its by-laws provide, and, in default of provisions in that behalf, the annual meeting shall be held at its head office within 120 days of the year end of the credit union.

Business to be dealt with

(2) At such meeting, the board of directors shall place before the members,

(*a*) financial statements showing matters prescribed by the regulations relating separately to,

(i) the period that commenced on the date the credit union came into existence and ended not more than four months before the annual meeting or, if the credit union has completed a financial year, the period that began immediately after the end of the last completed financial year and ended not more than four months before the annual meeting, and

(ii) the period covered by the financial year next preceding such latest completed financial year, if any;

(*b*) the report of the supervisory committee, if any;

(*c*) the report of the auditor, if any; and

(*d*) such further information respecting the financial position of the credit union and the results of its operations as its by-laws require.

Report of supervisory committee

(3) The report of the supervisory committee, if any, to the members shall be read at the annual meeting and shall be open to inspection at the meeting by any member.

Report of auditor

(4) The report of the auditor, if any, to the members shall be read at the annual meeting and shall be open to inspection at the meeting by any member.

Approval of financial statement

(5) The board of directors of the credit union shall approve the financial statements referred to in clause *a* of subsection 2 and the approval shall be evidenced by the signature at the foot of the balance sheet of two duly authorized directors.

Distribution of financial statement

(6) The notice of the annual meeting of members shall be accompanied by a copy of the financial statements referred to in clause *a* of subsection 2 and a copy of the auditor's report, if any, or shall specify that copies of the above will be available at the meeting and copies of the above shall also be filed with the Director at least seven days before the date of the meeting.

General meetings

72. The board of directors may at any time call a general meeting of the members for the transaction of any business, the general nature of which is specified in the notice calling the meeting.

Requisition for members' meeting

73.—(1) 5 per cent of the members of a credit union may requisition the board of directors to call a general meeting of the members for any purpose that is connected with the affairs of the credit union and that is not inconsistent with this Act.

Requisition

(2) The requisition shall state the general nature of the business to be presented at the meeting and shall be signed by the requisitionists and deposited at the head office of the credit union and may consist of several documents in like form, each signed by one or more requisitionists.

Duty of directors to call meeting

(3) Upon deposit of the requisition, the board of directors shall forthwith call a general meeting of the members for the transaction of the business stated in the requisition.

When requisitionists may call meeting

(4) If the board of directors do not within twenty-one days from the date of the deposit of the requisition call the meeting, any of the requisitionists may call the meeting, which shall be held within sixty days from the date of the deposit of the requisition.

Calling of meeting

(5) A meeting called under this section shall be called as nearly as possible in the same manner as meetings of members are called under the by-laws, but, if the by-laws provide for more than twenty-one days notice of meetings, twenty-one days notice is sufficient for the calling of the meeting.

Repayment of expenses

(6) The credit union shall,

(*a*) reimburse all or any of the requisitionists for any reasonable expenses incurred by them by reason of the action taken by them under subsection 4; and

(*b*) retain out of any moneys due or to become due, by way of fees or other remuneration for their services, to such of the board of directors as were in default, an amount equal to the amount the requisitionists

were reimbursed, unless, at the meeting, the members by a majority of the votes cast reject the reimbursement of the requisitionists.

Annual statement to be given to members

74. Every credit union shall without charge supply to every member upon application therefor or as provided by its by-laws, a copy of its last comparative financial statement.

Inspection of books

75.—(1) Except as provided in this Act, no member or other person has any right to inspect the books of a credit union.

Idem

(2) Any member or other person having an interest in the funds of a credit union may inspect his own account and the books containing the names of the members at all reasonable hours at its head office or at whatever other place they are kept, subject to such conditions as to time and manner of inspection as the by-laws may prescribe.

As to loan or deposit accounts of members

(3) A credit union may by by-law authorize the inspection of any of its books therein mentioned, in addition to the books containing the names of members, under such conditions as are thereby prescribed, and no person, unless he is an officer of the credit union or is specifically authorized by a resolution thereof, has the right to inspect the loan or deposit account of any other member without such other member's written consent.

Branch meetings

76.—(1) A credit union may establish a branch or branches subject to such terms and conditions as are prescribed by the regulations and the branch may, by by-law, provide for the holding of meetings of the members who belong thereto.

Delegates

(2) Where a by-law under subsection 1 is in force, the members of a branch shall elect delegates, by special resolution, to represent the members at the annual or general meeting of the credit union, and the delegates so elected shall exercise the powers of the members of the branch at all meetings of the credit union and the members represented by such delegates are not entitled to vote at the meeting of the credit union.

Number and votes

(3) The number of delegates and votes allowed each branch at the meeting of the credit union shall be specified by the by-laws of the credit union, as well as the time, place and manner of calling a branch meeting, the number of members of the branch that constitute a quorum and the procedure to be followed in the conduct of the branch meeting.

Majority

(4) The required majority vote for deciding each issue to be voted on at the branch meeting shall be the same as that required for deciding such issues at meetings of the entire membership of the credit union as specified in this Act, the regulations and the by-laws of the credit union.

DIVIDENDS

Dividends

77. Subject to the by-laws, the board of directors may declare, and the credit union may pay, a dividend on the amounts paid in on shares held by members at any time during the fiscal year and may, at their discretion, declare rebates of interest paid by members in respect of loans during that fiscal year.

When dividend not to be declared

78.—(1) The board of directors shall not declare and the credit union shall not pay any dividend when the credit union is insolvent, or any dividend the payment of which renders the credit union insolvent or that diminishes its capital.

Directors' joint and several liability

(2) The directors who vote in favour of or consent to the resolution authorizing the declaration of a dividend are jointly and severally liable to the credit union to the extent of the amount of the dividend so declared and paid or such part thereof as renders the credit union insolvent or diminishes its capital.

Exoneration

(3) If any director present at the meeting at which such dividend is declared, forthwith, or if any director then absent, within twenty-four hours after he becomes aware of the dividend and is able to do so, delivers or sends to the credit union by registered mail his protest against the dividend, and within eight days thereafter, sends a copy thereof to the Director, the director thereby and not otherwise exonerates himself from liability.

INVESTMENTS

Investments

79.—(1) A credit union may lend or invest its funds in,

government securities

(*a*) the bonds, debentures, stocks or other evidences of indebtedness issued or guaranteed by the government of Canada, or of a province or territory of Canada;

municipal securities

(*b*) the bonds, debentures or other evidences of indebtedness issued or guaranteed by a municipal corporation in Canada, or by a school or religious corporation in Canada, or secured by rates or taxes levied under the authority of the government of a province of Canada on property situate in such

province and collectable by the municipalities in which such property is situate;

(*c*) the bonds, debentures or other evidences of indebtedness issued by an authority or other body established and empowered pursuant to the law of Canada or any province thereof to administer, regulate the administration of, provide or operate port, harbour, airport, bridge, highway tunnel, transportation, communication, sanitation, water, electricity or gas services or facilities and, for any of these purposes, to levy, impose or fix taxes, rates, fees or other charges; revenue bonds

(*d*) the bonds, debentures or other evidences of indebtedness issued by a corporation that are fully secured by a mortgage, charge or hypothec to a trustee, or to the credit union upon any, or upon any combination, of the following assets, bonds, etc., secured by mortgage

(i) improved real estate or leasehold,

(ii) the plant or equipment of a corporation that is used in the transaction of its business, or

(iii) bonds, debentures or other evidences of indebtedness or shares, of a class authorized by this subsection, as investments, or cash balances, if such bonds, debentures or other evidences of indebtedness, shares or cash balances are held by a trustee,

and the inclusion, as additional security under the mortgage, charge or hypothec, of any other assets not of a class authorized by this Act as investments shall not render such bonds, debentures or other evidences of indebtedness ineligible as an investment;

(*e*) obligations or certificates issued by a trustee to finance the purchase of transportation equipment for a corporation incorporated in Canada to be used on railways or public highways, if the obligations or certificates are fully secured by, equipment trust certificates

(i) an assignment of the transportation equipment to, or the ownership thereof by, the trustee, and

(ii) a lease or conditional sale thereof by the trustee to the corporation;

debentures

(*f*) the bonds, debentures or other evidences of indebtedness issued or guaranteed by,

(i) a corporation if, at the date of investment, the preferred shares or the common shares of the corporation are authorized as investments by clause *h* or *i*,

(ii) a corporation, if its earnings in a period of five years ended less than one year before the date of investment have been equal in sum total to at least ten times and in each of any four of the five years have been equal to at least one and one-half times the annual interest requirements at the date of investment on all indebtedness of or guaranteed by it, other than indebtedness classified as a current liability in its balance sheet, and, if the corporation at the date of investment owns directly or indirectly more than 50 per cent of the common shares of another corporation, the earnings of the corporations during the said period of five years may be consolidated with due allowance for minority interests, if any, and in that event the interest requirements of the corporation shall be consolidated and such consolidated earnings and consolidated interest requirements shall be taken as the earnings and interest requirements of the corporation, and, for the purpose of this subclause, "earnings" means earnings available to meet interest charges on indebtedness other than indebtedness classified as a current liability;

guaranteed investment certificates

(*g*) guaranteed investment certificates issued by a trust company incorporated in Canada if, at the date of investment, the preferred shares or the common shares of the trust company are authorized as investments by clause *h* or *i*;

preferred shares

(*h*) the preferred shares of a corporation if,

(i) the corporation has paid a dividend in each of the five years immediately preceding the date of investment at least equal to the specified annual rate upon all of its preferred shares, or

(ii) the common shares of the corporation are, at the date of investment, authorized as investments by clause *i*;

(*i*) the fully paid common shares of a corporation that during a period of five years that ended less than one year before the date of investment has either, common shares

(i) paid a dividend in each such year upon its common shares, or

(ii) had earnings in each such year available for the payment of a dividend upon its common shares,

of at least 4 per cent of the average value at which the shares were carried in the capital stock account of the corporation during the year in which the dividend was paid or in which the corporation had earnings available for the payment of dividends, as the case may be;

(*j*) ground rents, mortgages, charges or hypothecs on real estate or leaseholds in Ontario, but the amount paid for the mortgage, charge or hypothec together with the amount of indebtedness under any mortgage, charge or hypothec on the real estate or leasehold ranking equally with or prior to the mortgage, charge or hypothec in which the investment is made shall not exceed three-quarters of the value of the real estate or leasehold covered thereby; Mortgages, etc.

(*k*) mortgages or charges on improved real estate or leaseholds in Ontario notwithstanding that the mortgage or charge exceeds the amount that the credit union is otherwise authorized to invest if the excess is insured or guaranteed by the government of Canada or Ontario or by an agency of the government of Canada or Ontario or by a policy of mortgage insurance issued by an insurance company licensed under *The Insurance Act* for such class of insurance; guaranteed mortgages R.S.O. 1970, c. 224

(*l*) real estate or leaseholds for the production of income in Canada either alone or jointly with any other credit union or with any loan corporation or trust company incorporated in Canada, if, real estate or leaseholds for the production of income

(i) a lease of the real estate or leasehold is made to, or guaranteed by,

(A) the Government of Canada and its territories or of a province, or municipality thereof, or

(B) a corporation, the preferred shares or common shares of which are, at the

date of investment, authorized as investments by clause *h* or *i*,

(ii) the lease provides for a net revenue sufficient to yield a reasonable interest return during the period of the lease and to repay at least 85 per cent of the amount invested in the real estate or leasehold within the period of the lease but not exceeding thirty years from the date of investment, and

(iii) the total investment of a credit union in any one parcel of real estate or in any one leasehold does not exceed 2 per cent of the book value of the total assets of the credit union,

and the credit union may hold, maintain, improve, lease, sell or otherwise deal with or dispose of the real estate or leasehold;

other real estate or leaseholds for the production of income

(*m*) real estate or leaseholds for the production of income in Canada either alone or jointly with any other credit union or with any loan corporation or trust company incorporated in Canada, if,

(i) the real estate or leasehold has produced, in each of the three years immediately preceding the date of investment, net revenue in an amount that, if continued in future years, would be sufficient to yield a reasonable interest return on the amount invested in the real estate or leasehold and to repay at least 85 per cent of that amount within the remaining economic lifetime of the improvements to the real estate or leasehold but not exceeding forty years from the date of investment, and

(ii) the total investment of a credit union in any one parcel of real estate or in any one leasehold does not exceed 2 per cent of the book value of the total assets of the credit union,

and the credit union may hold, maintain, improve, lease, sell or otherwise deal with or dispose of the real estate or dispose of the real estate or leasehold;

mutual funds

(*n*) in the fully paid shares or units of any mutual fund or corporation incorporated to offer public participation in an investment portfolio subject to such terms and conditions as may be prescribed by the Lieutenant Governor in Council.

(2) Notwithstanding clauses *k*, *l* and *m* of subsection 1, a credit union may invest to an aggregate amount not exceeding 5 per cent of its unimpaired capital, deposits and reserves, in any other classes or types of investments, including mortgages or charges, the purchase of land, the improvement thereof, the construction of buildings thereon, and the management and disposal of such lands and buildings. Idem

80. The following restrictions, limitations and prohibitions apply to credit unions in the exercise of their investment policies under this Act, Investment restrictions

(*a*) a credit union shall not invest any of its funds in bonds, debentures or other evidences of indebtedness on which the payment of principal or interest is in default;

(*b*) a credit union shall not act as an underwriter in connection with the purchase or sale of any securities or other property of any kind;

(*c*) except as to securities issued or guaranteed by the Government of Canada or the government of a province of Canada, a credit union shall not invest in any one security or make a total investment in any one corporation that is not a credit union or a league, either by the purchase of shares or other securities of such corporation or by lending to it on the security of its debentures or other assets or any part thereof, of more than 10 per cent of the book value of the total assets of the credit union;

(*d*) a credit union shall not make any investment the effect of which will be that it will hold more than 30 per cent of the common shares or 30 per cent of the total issued shares of any one corporation;

(*e*) the total book value of the investments of a credit union in common shares shall not exceed 5 per cent of the book value of the total assets of the credit union;

(*f*) the total book value of the investments of a credit union in real estate or leaseholds for the production of income shall not exceed 10 per cent of the book value of the total assets of the credit union;

(*g*) a credit union shall not make any investment in or loan to another credit union an amount in excess of 1 per cent of its unimpaired capital, deposits and surplus without the written approval of the Director; and

(*h*) a credit union shall not invest in the shares of a corporation that is a member of the credit union.

Loans and deposits

81.—(1) Subject to paragraphs 3 and 4 of subsection 2 of section 11, no credit union shall advance money by discount, loan or otherwise to, or accept deposits from, persons other than its members.

Limitation on interest

(2) Interest, together with all the costs of borrowing including bonuses, premiums and penalties shall not exceed such amount as is prescribed by the regulations.

Loans to officers

(3) No credit union shall lend to an officer or member of a committee or of the board of directors of the credit union an amount in excess of the aggregate of fully paid up shares and deposits of such member unless such loan is approved by the credit committee, the board of directors, and the supervisory committee.

Limitations on loans to members

(4) No credit union shall lend to a member an amount that is in excess of 10 per cent of the aggregate of its capital, members' deposits and surplus, or such lesser percentage as may be prescribed in the by-laws of the credit union.

Limitations on loans to unincorporated members

(5) No credit union shall lend to a member who is an unincorporated association unless such loan is approved by the credit committee, the supervisory committee and the board of directors.

Loans to corporate and partnership members

82.—(1) A credit union may make loans to corporations and partnerships who are members of the credit union in an aggregate not exceeding the greater of,

(*a*) 7 per cent of the credit union's unimpaired capital, deposits and surplus; or

(*b*) such percentage as the Director may approve, not in excess of 15 per cent of the unimpaired capital deposits and surplus of the credit union;

and such loans must be fully secured in the manner provided by the regulations.

Loans to unincorporated members

(2) A credit union may make secured loans to unincorporated associations who are members in aggregate not exceeding 1 per cent of the credit union's unimpaired share capital.

Loans to individuals

(3) A credit union may make loans to members who are individuals on such terms as are provided for in the by-laws.

83. A credit union may make loans to its members by way of mortgage, charge or hypothecation on a term not exceeding five years, subject to renegotiation, and, Mortgage loans to members

(*a*) The maximum amount that may be loaned by way of mortgage, subject to any limitation in the by-laws of the credit union, shall not exceed,

(i) three-quarters of the value of the real estate to which the mortgage or charge relates unless the excess over three-quarters of the value of the real estate to which the mortgage or charge relates is insured or guaranteed by the government of Canada, or Ontario or by an agency thereof, or by a policy of mortgage insurance issued by an insurance company licensed under *The Insurance Act* for such class of insurance, R.S.O. 1970, c. 224

(ii) in the case of a second mortgage, the balance owing on the first mortgage shall be taken into account in meeting the requirements referred to in subclause i; and

(*b*) the mortgage shall contain a definitive provision for repayment which will result in the principal and interest being fully repaid within twenty-five years or such longer period of time as the regulations may prescribe,

but if the credit union becomes an approved lender for the purpose of making loans under the *National Housing Act*, the provisions of that Act apply to mortgage loans undertaken by the credit union under that Act. R.S.C. 1970, c. N-10

84. A credit union may make guaranteed loans under and in accordance with the provisions of the *Canada Student Loans Act* (Canada), the *Farm Improvement Loans Act* (Canada) or the *Fisheries Improvement Loans Act* (Canada) and such other Act as may be designated by the regulations. Student loans R.S.C. 1970, cc. S-17, F-3, F-22

85.—(1) The credit committee may approve an extension of credit for a member by way of contract loans and advances may be made to such member from time to time within the limits of the approved extension of credit. Loans and advances

(2) The credit committee shall review all extensions of credit and an extension of credit expires if the member becomes more than ninety days in default of any repayment. Review

Contract loans

(3) An extension of credit by way of contract loan is a loan within the meaning of this Act.

Directors, etc., not to guarantee loans

86. No director, member of a credit committee, member of a supervisory committee or credit union officer or employee shall cosign, endorse, or act as a guarantor for any borrower from the credit union unless such loan was made to a related person and approved in the manner provided in section 81.

Postponement or renegotiation of loans

87. The credit committee of a credit union may in its discretion,

(*a*) upon receipt of a written request from a borrower or his cosigner, postpone the due date for the repayment of any one or more instalments of the principal of the loan or any part of an instalment or postpone the due date for the payment of any one or more payments of interest on the loan or any part of a payment, or both, and fix due dates accordingly;

(*b*) upon being satisfied that a loan is reasonably secure, authorize the release or substitution of any security or securities, in whole or in part, taken to secure a loan from the credit union to a member; and

(*c*) renegotiate a loan from the credit union to a member upon new terms in the event the circumstances of the borrower have changed.

Disposal of authorized investments

88.—(1) The Director may order a credit union to dispose of and realize any of its investments not made or held in accordance with this Act, the regulations or the by-laws and the credit union shall within sixty days after receiving the order absolutely dispose of and realize such investments, and, if the amount realized therefrom falls below the amount paid by the credit union for the investments, the board of directors of the credit union are jointly and severally liable for the payment to the credit union of any deficiency.

Exoneration

(2) If any director present at the meeting at which an investment to which subsection 1 applies is authorized, forthwith, or if any director then absent, within fourteen days after he becomes aware of the investment and is able to do so, delivers or sends to the credit union by registered mail his protest against the investment, and within thirty days thereafter, sends a copy thereof by registered mail to the Director, the director thereby and not otherwise exonerates himself from liability.

89.—(1) The Director may order a credit union to call any loan it has made not authorized by this Act, the regulations or the by-laws and the credit union shall within sixty days after receiving the direction call the loan, if possible, and, if within that time the full amount of the loan is not repaid, the members of the credit committee, the person or persons appointed under section 50 and the person or persons authorized under section 51 are jointly and severally liable for the payment to the credit union of any deficiency upon the maturity of the loan. Call of unauthorized loans

(2) If any member of the credit committee present at the meeting at which such loan is authorized, forthwith, or if any credit committee member then absent, within fourteen days after he becomes aware of the loan and is able to do so, delivers or sends to the credit union by registered mail his protest against the loan, and, within thirty days thereafter, sends a copy thereof by registered mail to the Director, the credit committee member thereby and not otherwise exonerates himself from liability. Exoneration

90. A credit union may accept money on deposit at a specified rate of interest for a term not longer than five years. Term deposits

91.—(1) Where the combined share capital and the deposits of a credit union exceed $100,000 and it has appointed an auditor in accordance with this Act and it has an accounting system satisfactory to the Director and its board of directors has so authorized, it may, so long only as the Director approves in writing, permit its members to use negotiable orders for the withdrawal of moneys on deposit. Negotiable orders

(2) The Director may at any time revoke any approval given under subsection 1. Revocation of approval

(3) No officer or employee of a credit union shall permit any withdrawal of moneys from the deposit or share account of a member unless the amount in such deposit or share account is equal to or in excess of the amount sought to be withdrawn, and any officer or employee who contravenes this subsection is guilty of an offence under this Act. Withdrawal of money

(4) Nothing in this section curtails, abridges, defeats or otherwise affects any remedy for the recovery from a member Remedies not affected

of any amount withdrawn in excess of the amount standing to his credit in his deposit or share account.

Reserve for deposits

92.—(1) Each credit union shall at all times maintain to an aggregate of at least 10 per cent of the amount of deposits, shares and borrowings of the credit union,

(*a*) cash, including deposits with a chartered bank in Canada, a loan or trust company registered under *The Loan and Trust Corporations Act*, the Province of Ontario Savings Office or a league, providing that such deposits are callable within ninety days;

R.S.O. 1970, c. 254

(*b*) unencumbered bonds, debentures or other obligations of or guaranteed by the Government of Canada or by the government of any province or shares of a league, valued at market value;

(*c*) in the case of a credit union that is in regular receipt of deductions made from the payroll of any of its members, an amount equal to any such deductions which have been made and are in the course of being remitted; and

(*d*) the asset referred to in subsection 7 of section 111 valued in accordance with that subsection.

Idem

(2) Where the Director has given approval to a credit union under subsection 1 of section 91, the credit union shall maintain in the manner specified in subsection 1 an additional reserve equal to 10 per cent of the aggregate amount on deposit with the credit union that is withdrawable by negotiable order.

Idem

(3) Of the amount required to be maintained under subsection 1, at least 10 per cent shall be maintained in cash as provided in clause *a* of subsection 1.

Loans where reserves deficient

(4) No credit union shall make any loan or investment other than an investment authorized by clause *b* of subsection 1 until it has satisfied the requirements of subsection 1.

Regulations re reserves

93. The Lieutenant Governor in Council may make regulations prescribing further percentages of the reserves or classes of deposits or investments required to be maintained under section 92.

94.—(1) Every credit union in computing its annual net income or loss shall make full provision for, Provision for losses and accrued interest

(*a*) all doubtful loans, other doubtful receivables, and losses on investments; and

(*b*) all interest accruing on deposits.



(2) A credit union may by special resolution establish a reserve and may transfer to the reserve from undivided earnings or transfer from the reserve to undivided earnings such amounts as the board of directors may by resolution direct. Establishment of reserve



ONTARIO SHARE AND DEPOSIT INSURANCE CORPORATION

95. In sections 96 to 118, "Corporation" means the Ontario Share and Deposit Insurance Corporation. Interpretation

96.—(1) There is hereby established a corporation without share capital to be known in English as the Ontario Share and Deposit Insurance Corporation and in French as La Société Ontarienne D'Assurance des Actions et Depôts. Corporation established

(2) *The Corporations Act* does not apply to the Corporation. Application of R.S.O. 1970, c. 89

(3) The members of the Corporation shall be all credit unions incorporated in Ontario. Corporation members

97.—(1) The board of directors of the Corporation shall be appointed by the Lieutenant Governor in Council and shall consist of, Board of directors

(*a*) three persons nominated by a league that has more than fifty members and that is approved by the Lieutenant Governor in Council for the purpose of this section;

(*b*) one person nominated by a league that has fewer than fifty members and that is approved by the

Lieutenant Governor in Council for the purpose of this section; and

(*c*) three persons to represent the public and the credit unions who are not members of a league.

Chairman

(2) The board of directors shall elect or appoint from among themselves a chairman.

Functions

98.—(1) The affairs of the Corporation shall be administered by the board of directors.

Chairman to preside

(2) The chairman shall preside at all meetings of the Corporation but, where at any meeting the chairman is absent, one of the directors present thereat who is chosen so to act by the directors present shall preside and has and shall exercise the powers of the chairman.

Secretary and treasurer

(3) The board of directors may appoint a secretary and a treasurer.

Quorum

(4) A majority of the members of the board of directors constitutes a quorum.

Travelling expenses

(5) A member of the board of directors shall be paid by the Corporation out of its income all reasonable travelling and living expenses incurred by him while absent from his ordinary place of residence in the course of his duties as a director and, in addition, may be paid out of income as remuneration for his services and duties such daily or other amount as may be fixed by the board and reported to its members in its annual report.

Annual report

99.—(1) The Corporation shall within four months after the termination of each financial year transmit to its members, the Minister and the Superintendent, an annual report relating to its activities in that year including financial statements of the Corporation in the form required by section 71 and the auditor's report thereon, which shall be in accordance with sections 63 and 64.

Annual examination of the Superintendent

(2) The Superintendent shall be deemed to have an interest in the Corporation as representative of all persons who may be claimants against credit unions, and the board of directors, officers and employees of the Corporation shall from time to time furnish the Superintendent with such information and financial statements with respect to the

Corporation as the Superintendent may require, and the Superintendent shall make an annual examination and report to the Minister and the Minister shall then lay the annual report of the Corporation and report of the Superintendent before the Assembly if it is in session or, if not, at the next ensuing session.

Term of office

100. The members of the board of directors shall hold office for a term of three years commencing on the date on which they were appointed and thereafter until their successors are appointed and any casual vacancy occurring shall be filled in accordance with section 97 for the balance of the term of the director whose office became vacant.

Objects

101. The objects of the Corporation are,

(*a*) to accumulate, manage, invest, disburse and pay out a separate fund for each league and a further fund for all independent members, such funds to be accounted for separately and each fund receiving the revenues or assets and bearing all direct charges and an appropriate portion of such other charges as may be applicable to it;

(*b*) to provide, in its discretion, financial assistance, having regard to the liabilities and assets of each fund, for the purpose of assisting any credit union in the appropriate category in its continued operation or in the orderly liquidation of its operations;

(*c*) to provide, for the benefit of persons having shares or deposits with credit unions in Ontario deposit insurance against loss of part or all of such shares or deposits, by making payments to such persons to the extent and in the manner authorized by this Act.

Ancillary powers

102. The Corporation may do all things necessary or incidental to its objects and in particular, but without limiting the generality of the foregoing, the Corporation may, in furtherance of its objects,

(*a*) acquire assets from credit unions, make loans or advances to credit unions and take security therefor and guarantee loans to or deposits with credit unions;

(*b*) require the payment of levies by credit unions for the purpose of establishing and maintaining the assets of the corporation;

(*c*) assume the costs of winding up of credit unions;

(*d*) acquire assets of credit unions from a liquidator or receiver thereof;

(*e*) make an advance or grant for the purpose of paying lawful claims against credit unions in respect of any claims of their members for withdrawal of deposits or share capital and become subrogated as an unsecured creditor for the amount of such advance;

(*f*) borrow money on the credit of the Corporation or on bills of exchange or promissory notes drawn, made, accepted or endorsed by or on behalf of the Corporation and may pledge as security all or any part of the assets of the funds;

(*g*) make or cause to be made such inspections or examinations of credit unions as may be authorized under this Act;

(*h*) declare and pay dividends to its members; and

(*i*) do all such other things, not contrary to this Act, as may be necessary for the exercising of any of the powers of the Corporation.

Powers and duties of Corporation

103. The board of directors shall administer the affairs of the Corporation in all things and make, or cause to be made, for the Corporation any description of contract that the Corporation may by law enter into, and, subject to the approval of the Lieutenant Governor in Council, the Corporation may make by-laws for,

(*a*) the administration, management and control of the property and affairs of the Corporation;

(*b*) the functions, duties and remuneration of all officers, agents and employees of the Corporation;

(*c*) the appointment or disposition of any special committees from time to time created by the Corporation;

(*d*) the appointment of an auditor;

(*e*) determining the seal of the Corporation;

(*f*) the time and place for the holding of meetings of the board of directors and the procedure in all things at such meetings;

(*g*) prescribing standards of sound business and financial practices for credit unions;

(*h*) prescribing the manner in which a credit union may represent that it is a contributor to the Corporation;

(*i*) defining the expression "deposit" for the purpose of deposit insurance;

(*j*) authorizing and controlling the use by credit unions of marks, signs, advertisements or other devices indicating that deposits with credit unions are insured by the Corporation;

(*k*) the conduct in all other particulars of the affairs of the Corporation.

Powers of investigation

104. For the purposes of carrying out any investigation or inquiry authorized by this Act, the Corporation may appoint any person in writing to carry out the investigation or inquiry and the person so appointed shall be given free access to the books, records and documents of the credit union and has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to the investigation or inquiry as if it were an inquiry under that Act.

1971, c. 49

Prohibition as to holding out insured

105.—(1) No person, other than a credit union who is a member of the Corporation, shall by any written or oral representations of any kind advertise or hold out any corporation, society or association as being insured or approved for deposit insurance by the Corporation and a person who contravenes this subsection is guilty of an offence.

Advertising

(2) No credit union shall advertise or hold out by any written or oral representation that it is insured by the Corporation otherwise than by such marks, signs, advertisements or other devices as are authorized by the by-laws of the Corporation and used in the manner and on the occasions prescribed by the by-laws and a credit union who contravenes this subsection is guilty of an offence.

Fiscal year

106. The fiscal year end of the Corporation ends on the 31st day of December in each year.

Investment of funds

107.—(1) The Corporation may, in its discretion, invest any funds not required in carrying out its objectives in the classes of securities in which a credit union may invest its

funds under section 79 and subject to the restrictions, limitations and prohibitions contained in section 80.

Idem

(2) Notwithstanding subsection 1, the Corporation shall at all times maintain more than 50 per cent of the book value of its total assets invested in,

(*a*) unencumbered debentures, bonds, stocks or other securities of or guaranteed by the Government of Canada or of or guaranteed by any province of Canada;

(*b*) the bonds, debentures or other evidences of indebtedness issued or guaranteed by a municipal corporation in Canada;

(*c*) guaranteed investment certificates issued by a trust company incorporated in Canada if, at the date of investment, the preferred or common shares of the trust company are authorized as investments under section 79;

(*d*) cash on hand or on deposit in a chartered bank or a loan or trust company registered under *The Loan and Trust Corporations Act* or a league, or the Canadian Co-operative Credit Society or other institution that is prescribed by regulation,

R.S.O. 1970, c. 254

except that not more than 20 per cent of the book value of its total assets shall at any one time be invested in any one of investments referred to in clauses *a*, *b* and *c*.

Duty to insure

108.—(1) The Corporation shall insure each deposit with a credit union, except so much of any one deposit as exceeds $20,000.

How payable

(2) Where the Corporation is obliged to make payment in respect of any deposit insured by deposit insurance, the Corporation, as soon as possible after the obligation arises, shall, in respect of such deposit, make payment to such person as appears entitled thereto by the records of the credit union with whom the deposit was made, by paying such person an amount in money equal to so much of his money as is insured by the Corporation.

Discharge of liability

(3) Payment under this section by the Corporation in respect of any deposit insured by deposit insurance discharges the Corporation from all liability in respect of that deposit and in no case is the Corporation under any obligation to see to the proper application in any way of the payment so made.

(4) Where the Corporation makes a payment under this section in respect of any deposit with a credit union, the Corporation is subrogated to the extent of the payment made to all the rights and interest of the depositor as against that credit union. Subrogation

109.—(1) No credit union that is carrying on business in Ontario shall accept deposits or moneys on account of shares after the coming into force of this section unless it is insured by the Corporation from and after that day in accordance with this Act and the by-laws of the Corporation. Insuring credit unions

(2) Where a credit union commences business in Ontario after the day on which this section comes into force, the deposits with the credit union shall be insured by the Corporation in accordance with this Act and the by-laws of the Corporation from and after the day the credit union commences business. Idem

(3) Where a credit union becomes insured with the Corporation, the Corporation shall issue to the credit union a certificate of deposit insurance in the form prescribed by the regulations. Certificate

110.—(1) The deposit insurance of a credit union may be cancelled on not less than thirty days notice to the credit union by the Corporation when, Cancellation of deposit insurance

(*a*) the credit union is in breach of the standards of business and financial practices prescribed by the Corporation or any of conditions of a policy of deposit insurance issued to it;

(*b*) the credit union ceases to accept deposits or issue shares; or

(*c*) an order has been made under section 116 for the Corporation to take possession of the credit union.

(2) When the deposit insurance of a credit union is cancelled by the Corporation, the deposits with the credit union on the day the cancellation takes effect, less any withdrawals from such deposits, continue to be insured for a period of two years or, in the case of a term deposit with a remaining term exceeding two years, to the maturity thereof. Effect of cancellation

(3) Where the deposit insurance of a credit union has been cancelled, the credit union shall notify its depositors of that fact and shall cease to accept deposits from the date of cancellation forward. Notification to depositors

Public notice

(4) The Corporation may, in such manner as it considers expedient, give public notice of the cancellation of deposit insurance of a credit union if, in the opinion of the Corporation, the public interest requires that such notice be given.

Assessment from league

111.—(1) The Corporation shall assess and collect during its first year of operation from each league an amount equal to 1 per cent of the aggregate total share capital and deposits of each credit union that is a member of the league at the end of the fiscal year of the league immediately preceding the assessment and the league is entitled to recover an appropriate amount from each of its members.

Assessment from credit unions outside league

(2) The Corporation shall assess and collect during its first year of operation from every credit union that is not a member of a league an amount equal to 1 per cent of the total share capital and deposits of the credit union at the end of the fiscal year of the credit union immediately preceding the assessment.

Annual assessment

(3) The Corporation shall in each year thereafter assess and collect from, or refund to, each league and every credit union that is not a member of a league, in each year an amount equal to 1 per cent of the increase or decrease in the total share capital and deposits of the credit union.

Extra-ordinary assessment

(4) In addition to amounts collected under subsection 3, the Corporation may assess and collect from every credit union, directly or through a league, such further amount, based on the total amount of the shares and deposits of the credit union as at the end of the fiscal year immediately preceding the assessment, as the Corporation considers necessary to replace any advances or payments made by the Corporation in the exercise of its powers under this Act.

Idem

(5) For the purposes of the assessment referred to in subsection 4, the Corporation shall maintain separate funds for each league and a further fund to encompass the activities of all credit unions that do not belong to a league and each such assessment shall be fixed by the Corporation having regard to the financial position of each fund.

Assessment of debt

(6) All amounts assessed by the Corporation against a credit union or league for the purposes of this Act shall be deemed to be a debt owing to the Corporation and the amount thereof, together with any interest levied by the Corporation as an overdue charge is recoverable by action in any court of competent jurisdiction.

(7) A credit union shall charge any assessment levied under subsection 4 as an expense, but, notwithstanding subsection 6, a credit union may treat any other assessment levied under this section as an asset, the value whereof shall be adjusted from time to time in accordance with the financial position of the appropriate fund accumulated by the Corporation. Assessment to be treated as an expense

(8) Where in any year its earnings have exceeded its expenses, the Corporation may in its discretion declare a dividend to all credit unions participating in that fund of an amount not more than such excess. Dividends

(9) On the dissolution of a credit union, the Corporation shall repay to it an amount equal to its assessments paid under subsection 1, 2 or 3, adjusted in accordance with the financial position of the appropriate fund, and for this purpose the Corporation's evaluation of the financial position of the fund shall be conclusive. Replacement on dissolution

112. Notwithstanding anything in this Act, the Corporation may remit or defer the collection of any assessment made by the Corporation and upon such terms and conditions as it may direct. Repayments

113.—(1) The Corporation shall maintain an account for each fund to be known as the accumulated net earnings to which shall be credited all earnings including realized profits on the sale of securities and to which shall be charged all expenses including operating and administrative expenses, costs of examinations and inspections of credit unions, losses and specific provisions for losses and losses on sales of securities. Accumulated net earnings

(2) The accumulated net earnings for each fund shall be reported as a separate item in any statement of assets and liabilities of the Corporation and shown as an addition to or a deduction from each fund. Separate item in report

(3) Upon any credit union changing its status with respect to membership in any league, its contribution to the appropriate fund shall be transferred and the liabilities of the respective funds shall be adjusted accordingly, subject to the approval of the Superintendent after such audit of the credit union's affairs as seems necessary to the Superintendent. Adjustment of funds

114.—(1) For the purposes of the Corporation, the affairs of each credit union shall be examined by a person provided for under this section at least once in each year, and a copy Annual examination of credit unions

of such examination shall be forthwith transmitted by the examiner to the Corporation and the Director.

Idem

(2) The annual examination shall be made,

(*a*) where the credit union is a member of a league, by the league;

(*b*) where the credit union is not a member of a league, by the Director,

and the cost shall be borne by the Corporation, except that the Corporation may, in place of an examination made under clause *a* or *b*, accept the report of the annual examination of the auditor of the credit union.

Examination of leagues

(3) The Director shall make an annual examination of each league at the expense of the Corporation, and shall give a copy of his report to the Corporation.

Contents of examiner's report

115.—(1) The person examining the affairs of a credit union under section 114 shall include in the report whether or not, in his opinion, there has been any change in the circumstances of the credit union that might materially affect the financial position of the credit union and particularly, without limiting the generality of the foregoing, whether or not, in his opinion,

(*a*) the assessment return made by the Corporation and in which payment to the Corporation was based are correct;

(*b*) the operations of the credit union are being conducted in accordance with sound business and financial practices; and

(*c*) the credit union is in a satisfactory financial condition.

Idem

(2) Each report shall further state whether or not, in the opinion of the examiner under section 114, there has been any contravention of the provisions of this Act and shall be served on the credit union.

Order taking over management

116.—(1) Where the Corporation has received a report under sections 114 and 115, that the affairs of a credit union are not in a satisfactory financial condition, and has given the credit union an opportunity to be heard and after such further inquiry and investigation as the Corporation sees fit to make, the Corporation agrees with the report, the Corporation by order, shall itself or by some other person named in

the order, forthwith take possession of the property of such credit union and conduct its business and take such steps as in the Corporation's opinion may be taken toward the removal of the causes and conditions which have made such proceedings necessary, and for such purposes and without limiting the generality of the foregoing,

(*a*) the Corporation, or person named in the order, has all the powers of the board of directors of the credit union;

(*b*) the Corporation, or person named in the order, has power to exclude from the credit union its officers, directors, servants and agents from the property and business of the credit union; and

(*c*) the Corporation, or person named in the order, has power to carry on, manage and conduct the operations of the credit union and in the name of the credit union to preserve, maintain, realize, dispose of and add to the property of the credit union, to amalgamate with another credit union or to sell to another credit union all or part of its assets, subject to section 130 or 131 to receive the incomes and revenues of the credit union and to exercise all the powers of the credit union.

Idem, upon request

(2) Upon the request of a credit union, the Corporation may with respect to such credit union exercise the powers mentioned in subsection 1.

Termination of order

117. If at any time the Corporation considers that the affairs of the credit union have been placed in a satisfactory financial condition, the Corporation may return possession of the property of the credit union to it, and, upon such return, the order and the powers of the Corporation under which the Corporation took possession of the property of the credit union terminate.

Review of order

118.—(1) A credit union may apply to the Commercial Registration Appeal Tribunal for a review of any order of the Corporation under subsection 1 of section 116 within thirty days after the making of the order and the delivery of a copy thereof to an officer of the credit union.

Stay

(2) The order of the Corporation takes effect immediately, but the Tribunal may grant a stay until the review is disposed of.

Hearing

(3) The Tribunal shall fix a time and place for a hearing of the application and shall at least ten days before the day

fixed cause notice thereof to be served upon the applicant, the Corporation, the Director and any other person appearing to the Tribunal to have an interest in the application.

Parties

(4) Every person upon whom notice of the hearing is served and any other person added by the Tribunal are parties to the proceedings.

Powers of Tribunal

(5) The Tribunal shall hold the hearing and may by order direct the Corporation to take such action as the Tribunal considers proper or to refrain from taking any action specified in the order and thereupon the Corporation shall act accordingly.

Further decision

(6) Notwithstanding the order of the Tribunal, the Corporation has power to make any further reports and orders on new material or where there is a material change in the circumstances, and any such further order is subject to review under this section.

WINDING UP

Interpretation

119. In sections 120 to 128, "contributory" means a person who is liable to contribute to the property of a credit union in the event of the credit union being wound up under this Act.

Voluntary winding up

120.—(1) Where the members of a credit union by a special resolution require the credit union to be wound up, the credit union may be wound up voluntarily.

Appointment of liquidator

(2) At such meeting, the members shall appoint one or more persons, who may be directors, officers or employees of the credit union or a league, as liquidator of the estate and effects of the credit union for the purpose of winding up its affairs and distributing its property, and may at that or any subsequent general meeting fix his remuneration and the costs, charges and expenses of the winding up.

Publication of notice of winding up

(3) A credit union shall file a copy of the resolution requiring the voluntary winding up of the credit union with the Director within ten days after the resolution has been passed and shall publish a notice of the resolution in *The Ontario Gazette* within twenty days after the resolution has been passed and in a newspaper having a general circulation in the locality in which the head office of the credit union is situate.

Vacancy in office of liquidator

(4) Where in a voluntary winding up a vacancy occurs in the office of liquidator by death, resignation or other-

wise, the members by a majority of the votes cast at a general meeting called for that purpose may elect a liquidator to fill the vacancy.

Removal of liquidator

(5) The members of the credit union may by a majority of the votes cast at a general meeting called for that purpose remove a liquidator previously appointed and in such case shall appoint another liquidator in his stead.

Commencement of winding up

(6) A voluntary winding up commences at the time of the passing of the resolution requiring the winding up.

Credit union to cease undertaking

(7) Where a credit union is being wound up voluntarily, the credit union shall, from the date of the commencement of the winding up, cease to carry on its undertaking, except in so far as may be required for the beneficial winding up thereof, and notwithstanding that it may be otherwise provided by its charter or by-laws, its corporate existence and all its corporate powers continue until the affairs of the credit union are wound up.

No proceeding against credit union without leave

(8) After the commencement of a voluntary winding up, no action or other proceedings shall be commenced against the credit union and no attachment, sequestration, distress or execution shall be put in force against the estate or effects of the credit union except by leave of the court and subject to such terms as the court imposes.

Liquidator to take custody

(9) Upon his appointment, the liquidator shall take custody and control of all property, rights and privileges of the credit union or to which the credit union appears to be entitled and shall take all necessary steps to wind up the credit union.

Liquidator to file with Director

(10) Within sixty days after his appointment, the liquidator shall prepare a statement of the assets, debts and liabilities of the credit union and shall file the statement with the Director.

List of contributories and calls

(11) Upon a voluntary winding up, the liquidator,

(*a*) shall settle the list of contributories;

(*b*) may, before he has ascertained the sufficiency of the property of the credit union, call on all or any of the contributories for the time being settled on the list of contributories, to the extent of their liability, to pay any sum that he considers necessary to satisfy the liabilities of the credit union, and the costs, charges and expenses of winding up and for the

adjustment of the rights of the contributories among themselves;

(*c*) a list of contributories settled by the liquidator is admissible in evidence as *prima facie* proof of the liability of the persons named therein to be contributories.

Meetings of credit union during winding up

(12) The liquidator may, during the continuance of the voluntary winding up, call general meetings of the members of the credit union for the purpose of obtaining their approval by resolution or for any other purpose as he thinks fit.

Arrangements with creditors

(13) The liquidator, with the approval of a resolution of the members of the credit union passed in general meeting, may make such compromise or other arrangement as the liquidator thinks expedient with any creditor or person claiming to be a creditor or having or alleging that he has a claim, present or future, certain or contingent, liquidated or unliquidated, against the credit union or whereby the credit union may be rendered liable.

Power to compromise with debtors and contributors

(14) The liquidator may, with the approval of a resolution of the members of the credit union passed in general meeting, compromise all debts and liabilities capable of resulting in debts and all claims, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist between the credit union and any contributory, alleged contributory or other debtor or person who may be liable to the credit union and all questions in any way relating to or affecting the property of the credit union, or the winding up of the credit union upon the receipt of such sums payable at such times and generally upon such terms as are agreed, and the liquidator may take any security for the discharge of such debts or liabilities and give a complete discharge in respect thereof.

Account to be made by liquidator

(15) The liquidator shall make up an account showing the manner in which the winding up has been conducted and the property of the credit union disposed of, and thereupon shall call a general meeting of the members of the credit union for the purpose of having the account laid before them and hearing any explanation that may be given by the liquidator and with the approval of a majority of the votes within ten days after the holding of the meeting cast at the meeting, the liquidator shall send a notice to the Director stating that the meeting was held, the date thereof and requesting dissolution.

Director to recommend dissolution

(16) The Director, upon being satisfied that the affairs of the credit union have been duly liquidated, may in

writing recommend to the Minister that the credit union be dissolved.

(17) The Minister may by order declare the credit union to be dissolved on such date as the order fixes and shall cause notice of any such dissolution of the credit union to be given in *The Ontario Gazette* and to the Director. Dissolution

121.—(1) A credit union may be wound up by order of the court, Winding up by court order

(*a*) where the members by a majority of the votes cast at a general meeting called for that purpose, pass a resolution authorizing an application to be made to the court to wind up the credit union;

(*b*) where proceedings have been commenced to wind up the credit union voluntarily and it appears to the court that it is in the interest of contributories and creditors that the proceedings should be continued under the supervision of the court;

(*c*) where it is proved to the satisfaction of the court that the credit union, though it may be solvent, cannot by reason of its liabilities continue its business and that it is advisable to wind it up; or

(*d*) where in the opinion of the court it is just and equitable for some reason other than the bankruptcy or insolvency of the credit union that it should be wound up.

(2) A winding up order may be made upon the application of the credit union or a member or, where the credit union is being wound up voluntarily, upon the application of the Director, liquidator or contributory or of a creditor having a claim of $200 or more. Who may apply

(3) Except where the application is made by the credit union, four days notice of the application shall be given to the credit union. Notice to credit union

(4) Except where the application is made by the Director, four days notice of the application shall be given to the Director. Notice to Director

(5) The court may, Power of court

(*a*) make the order applied for;

(*b*) dismiss the application with or without costs;

(*c*) adjourn the hearing conditionally or unconditionally;

(*d*) make an interim or other order as it considers appropriate; or

(*e*) refer the proceedings for the winding up to an officer of the court for inquiry and report and may authorize the officer to exercise such powers of the court as are necessary for the reference.

Appointment of liquidator

(6) The court making the winding up order may appoint one or more persons as liquidator of the estate and effects of the credit union for the purpose of winding up its affairs and distributing its property.

Remuneration

(7) The court may at any time fix the remuneration of the liquidator and the costs, charges and expenses of the winding up.

Vacancy

(8) Where a liquidator who is appointed by the court dies or resigns or the office becomes vacant for any reason, the court may fill the vacancy.

Removal

(9) The court may by order, for cause, remove a liquidator appointed by it and appoint another liquidator in his stead.

Notice of appointment

(10) A liquidator appointed by the court shall forthwith give notice to the Director and the Minister of the court order respecting the winding up and shall publish the notice in *The Ontario Gazette*.

Commencement of winding up

(11) Where a winding-up order is made by the court without prior voluntary winding-up proceedings, the winding up shall be deemed to commence at the time of the service of the notice of the application upon the Director.

Proceedings in winding up after order

(12) Where a winding-up order has been made by the court, proceedings for the winding up of the credit union shall be taken in the same manner and with the like consequences as are provided for a voluntary winding up, except that,

(*a*) the list of contributories shall be settled by the court unless it has been settled by the liquidator before the winding-up order; and

(*b*) all proceedings in the winding up are subject to the order and direction of the court.

Review by court

(13) Where the list of contributories has been settled by the liquidator before the winding-up order, it is subject to review by the court.

Meeting of members may be ordered

(14) Where a winding-up order has been made by the court, the court may direct meetings of the members of the credit union to be called, held and conducted in such manner as the court thinks fit for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting and to report the results of it to the court.

Order for delivery of property

(15) Where a winding-up order has been made by the court, the court may require any contributory for the time being settled on the list of contributories, or any director, employee, trustee, receiver, banker, agent or officer of the credit union, to pay, deliver, convey, surrender or transfer forthwith, within such time as the court directs, to the liquidator any money, books, papers, registers and other records, estate or effects that are in his hands and to which the credit union is, *prima facie*, entitled.

Inspection of documents and records

(16) Where a winding-up order is made by the court, the court may make an order for the inspection of the books, papers, registers and other records of the credit union by its creditors and contributories, and any documents and records in the possession of the credit union may be inspected in conformity with the order.

Proceedings against credit union after order

(17) After the commencement of a winding up by order of the court,

(*a*) no action or other proceedings shall be commenced or continued against the credit union; and

(*b*) no attachment, sequestration, distress or execution shall be carried out against the estate or effects of the credit union,

except by leave of the court and subject to such terms as the court may impose.

Provision for discharge of liquidator and distribution by the court

(18) Where the realization and distribution of the property of a credit union being wound up under an order of the court has proceeded so far that in the opinion of the court it is expedient that the liquidator should be discharged and that the property of the credit union remaining in his hands

can be better realized and distributed by the court, the court may make an order discharging the liquidator and for payment, delivery and transfer into court, or to such officer or person as the court directs, of such property, and it shall be realized and distributed by or under the direction of the court among the persons entitled thereto in the same way as nearly as may be as if the distribution were being made by the liquidator and the court may make an order directing how the documents and records of the credit union and of the liquidator are to be disposed of, and may order that they be deposited in court or otherwise dealt with as the court considers appropriate.

Order for dissolution

(19) The court at any time after the affairs of the credit union have been fully wound up may, upon the application of the liquidator or any other person interested, make an order dissolving it, and it is dissolved on the date fixed in the order.

Notice to Director

(20) The person on whose application the order was made shall, within ten days after it was made, file with the Director a certified copy of the order and the Director shall cause notice of the dissolution to be made in *The Ontario Gazette*.

Dissolution by the Minister

122.—(1) The Director, after the credit union has been given an opportunity to be heard by the Director, may recommend to the Minister that an order be made dissolving a credit union if he is satisfied that,

(*a*) its incorporation was obtained by fraud or mistake;

(*b*) it exists for an illegal purpose;

(*c*) the number of its members is reduced to fewer than twenty;

(*d*) it is not carrying on business or is not in operation; or

(*e*) it has contravened any of the provisions of this Act or the regulations.

Notice to credit union

(2) Where the Director recommends to the Minister that an order be made dissolving a credit union, a copy of his recommendations and the reasons therefor shall be delivered to the credit union.

Submissions to Minister

(3) The credit union may, within fifteen days after receiving the copy of recommendations and reasons of the Director

under subsection 2, make written submissions to the Minister in respect thereof.

Order for dissolution

(4) After considering the recommendations of the Director and the submissions, if any, of the credit union, the Minister may, in his discretion, order that the credit union be dissolved and, if necessary, shall appoint a liquidator to carry out the dissolution.

Liquidation

(5) The liquidator shall proceed to wind up the credit union and subsections 7 to 17 of section 120 apply thereto, except that no approval of the members of the credit union is required thereunder.

Director to report

(6) The Director upon being satisfied that the affairs of the credit union have been duly liquidated shall so report to the Minister.

Order declaring dissolution

(7) The Minister may by order declare that the credit union has been dissolved on such date as the order fixes and shall cause notice of the dissolution to be given in *The Ontario Gazette*.

Liability of members to creditors

123.—(1) Notwithstanding the dissolution of a credit union, each of the members among whom its property has been distributed other than the refunds of deposits, remains liable to its creditors to the extent of the amount received by him upon the distribution, and an action in a court of competent jurisdiction to enforce such liability may be brought against him within two years from the date of the dissolution and not thereafter.

Action against one member as representing class

(2) Where there are numerous members, the court referred to in subsection 1 may permit an action to be brought against one or more members as representatives of the class and, if the plaintiff establishes his claim as creditor, may make an order of reference and add as parties in the referee's office all such members as are found, and the referee shall determine the amount that each should contribute towards the plaintiff's claim and may direct payment of the sums so determined.

Forfeiture of undisposed property

124. Subject to section 123, any real or personal property of a credit union that has not been disposed of at the date of its dissolution is forfeit to the Ontario Share and Deposit Insurance Corporation.

Responsibilities of liquidator

125. Upon a winding up of a credit union,

(*a*) the liquidator shall apply the property of the credit

union in satisfaction of all its debts, obligations and liabilities, and, subject thereto, shall distribute any remaining property rateably among the members according to their rights and interests in the credit union;

(*b*) in distributing the property of the credit union, debts due to the employees of the credit union for services performed due at the commencement of the winding up or within one month before, not exceeding three months wages and accumulated sickness benefits or vacation pay accrued for not more than twelve months, shall be paid in priority to the claims of the ordinary creditors, and such persons shall rank as ordinary creditors for any additional amount of their claims for wages;

(*c*) all the powers of the board of directors of a credit union being wound up cease upon the appointment of a liquidator except to the extent that the liquidator may permit the continuance of these powers for the purpose of assisting the winding up proceedings.

Distribution of property R.S.O. 1970, c. 470

126. Section 53 of *The Trustee Act* applies *mutatis mutandis* to liquidators.

Payment of costs and expenses

127. The costs, charges and expenses of the winding up including the remuneration of the liquidator are payable out of the property of the credit union in priority to all other claims.

Powers of liquidator

128.—(1) A liquidator may,

(*a*) bring or defend any action, suit or prosecution, or other legal proceedings, civil or criminal, in the name and on behalf of the credit union;

(*b*) carry on the business of the credit union so far as may be necessary for the beneficial winding up of the credit union;

(*c*) sell the real and personal property of the credit union by public auction or private sale;

(*d*) borrow money on behalf of the credit union as may be necessary for the winding up of the credit union;

(*e*) draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the credit union;

(*f*) raise upon the security of the property of the credit union such moneys as may be required;

(*g*) take out in his official name, letters of administration of the estate of any deceased contributory and in his official name, do any other act that may be necessary for obtaining payment of any money due from a contributory or from his estate that cannot conveniently be done in the name of the credit union;

(*h*) do and perform all acts and other things and execute under the corporate seal or otherwise all documents in the name and on behalf of the credit union as may be necessary for winding up the affairs of the credit union and distributing its property;

(*i*) engage the services of a solicitor to assist him in the performance of his duty;

(*j*) employ an agent to do any business that the liquidator is unable to do himself;

(*k*) claim and, where necessary, prove any claim against the estate of a contributory for any debt or liability to the credit union;

(*l*) receive dividends in the distribution of an estate of a contributory in respect of any debt or liability mentioned in clause *k*;

(*m*) compromise all calls, and liabilities to call, debts and liabilities capable of or resulting in debts, and all claims, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or alleged as subsisting between the credit union and any other person;

(*n*) do and execute all such other things as are necessary for winding up the affairs of the credit union and distributing its property.

Bills of exchange deemed drawn in the course of business

(2) The execution, endorsement or making of all agreements, contracts, bills of exchange or other documents by a liquidator on behalf of a credit union has the same effect with respect to the rights and liabilities of the credit union as if the agreements, contracts or bills of exchange or other documents had been executed, endorsed or made by or on behalf of the credit union in the course of carrying on its business.

Where approval required

(3) The liquidator shall not exercise power granted under clause *a*, *d*, *f*, *m* or *n* of subsection 1,

(*a*) in the case of a voluntary winding up, unless he has obtained the approval in writing of the Director; or

(*b*) in the case of a winding up by order of the court, unless he has obtained the approval of the court.

Notice of liability of contributory

(4) The liability of a contributory is a debt accruing due from him at the time when his liability commenced, but payable at the time when calls are made for enforcing the liability.

Who liable in case of death

(5) Where a contributory dies before or after he is placed on the list of contributories, his personal representative, in administering the estate of the contributory, is liable to contribute to the property of the credit union in discharge of the liability of the deceased contributory and shall be a contributory accordingly.

Examination of persons as to estate

(6) The court may, at any time after the commencement of the winding up, summon to appear before the court or liquidator, any director, manager, employee or officer of the credit union, or any other person known or suspected to have in his possession any of the estate or effects of the credit union, or alleged to be indebted to the credit union, or any person whom the court thinks capable of giving information concerning the dealings, estate or effects of the credit union.

Damages against delinquent directors, etc.

(7) Where, in the course of the winding up of a credit union, it appears that a person who has taken part in the formation or promotion of the credit union or any past or present director, manager, officer, employee, liquidator or receiver of the credit union has misapplied or retained in his own hands, or become liable or accountable for money of the credit union, or has committed any misfeasance or breach of trust in relation to the credit union, the court may, on the application of a creditor, member, director, liquidator, or contributory, inquire into the conduct of that person and order him to restore the money so misapplied or retained, or for which he has become liable or accountable together with interest at such rate as the court considers just or to contribute such sum to the property of the credit union by way of compensation in respect of the misapplication, retention, misfeasance or breach of trust as the court considers just.

(8) Where a credit union has been wound up under this Act and is about to be dissolved, the books, registers and other records and papers of the credit union and of the liquidator may be disposed of in such manner as the Director may order, in the case of voluntary winding up, or as the court may order in the case of winding up under court order. Disposal of records

(9) The Lieutenant Governor in Council may make regulations respecting the procedure to be followed in a winding up, and, unless otherwise provided by this Act or by those regulations, the practice and procedure in a winding up under the *Winding-up Act* (Canada) apply. Regulations R.S.C. 1970, c. W-10

129. Where proceedings are taken under the *Winding-up Act* (Canada) in respect of a credit union, the secretary of the credit union shall send notice thereof to the Director by registered mail. Notice of winding-up proceedings

AMALGAMATIONS

130.—(1) Any two or more credit unions may amalgamate and continue as one credit union. Amalgamation of credit unions

(2) The credit unions proposing to amalgamate shall enter into an agreement for the amalgamation prescribing the terms and conditions of the amalgamation, the mode of carrying the amalgamation into effect, and, in particular, the agreement shall set out, Amalgamation agreement

(*a*) the name of the amalgamated credit union;

(*b*) the limitation on membership in the amalgamated credit union;

(*c*) the name in full, callings and places of residence of the first directors of the amalgamated credit union;

(*d*) the time and manner of election of subsequent directors of the amalgamated credit union;

(*e*) the par value of each share of the amalgamated credit union;

(*f*) the manner of converting the share capital of each of the amalgamating credit unions into that of the amalgamated credit union;

(*g*) such other details as are necessary to perfect the

amalgamation and to provide for the subsequent management and operation of the amalgamated credit union.

Filing of agreement

(3) Within one month after the agreement is signed, the parties shall file with the Director, in triplicate, true copies of the amalgamation agreement.

Submission to members of credit unions

(4) The agreement is subject to the approval of the Director, and to adoption by a vote of two-thirds of the votes cast at a meeting of each of the amalgamating credit unions called for the purpose of considering the agreement within one month after the approval of the Director is given and, when so adopted, the fact shall be certified upon the agreement by the secretary of each of the amalgamating credit unions under the corporate seal.

Application for certificate of amalgamation

(5) If the agreement is adopted in accordance with subsection 3, the amalgamating credit unions may apply jointly to the Minister for a certificate of amalgamation.

Certificate of amalgamation

(6) The Minister may, in his discretion, issue a certificate of amalgamation, and on and after the date of the certificate such amalgamating credit unions are amalgamated and are continued as one credit union under the name set forth in the certificate, and the amalgamated credit union possesses all the property, rights, privileges and franchises and is subject to all the liabilities, contracts, disabilities and debts of each of the amalgamating credit unions.

Notice

(7) The Minister shall cause notice of the issue of the certificate of amalgamation to be given in *The Ontario Gazette* and to the Director.

Sale and purchase of assets

131.—(1) A credit union may sell all or any part of its assets to another credit union or it may purchase all or any part of the assets of another credit union in accordance with this section.

Agreement

(2) The agreement of purchase and sale is subject to the approval of the Director.

Purchase price

(3) The purchasing credit union may assume, as part of the purchase price, any or all of the liabilities of the selling credit union and may pay the balance in cash or by the issue of shares or promissory notes to the selling credit union or the members thereof whether or not such members are members of the purchasing credit union.

Approval by members

(4) The agreement as approved by the Director is subject

to the approval of the members of each of the credit unions by at least a two-thirds vote of the members present at each meeting, and the secretary of each credit union shall certify on the agreement that it has been so approved and shall forward a copy of the agreement so certified to the Director.

Effect of approval

(5) Upon the approval of the members of each of the credit unions, the agreement is binding on each of the credit unions and the sale shall thereafter be completed as of the effective date specified in the agreement.

Effective date

(6) In the event the agreement does not specify an effective date, the Director may fix a date upon which it will become effective.

Where all assets disposed of

(7) If the selling credit union has disposed of all its assets under the agreement, it shall cease to carry on business on the effective date of the agreement, except for the purpose of winding up its affairs, and it shall dissolve as soon as possible thereafter.

Where approval deemed given

(8) If the total assets of the selling credit union are less than 15 per cent of the total assets of the purchasing credit union, the membership of the purchasing credit union shall be deemed to have given approval to the transaction.

REORGANIZATION

Amendment of Articles

Amendments

132.—(1) Subject to sections 133 and 134, a credit union may, from time to time, amend its articles of incorporation to,

(*a*) limit or otherwise vary its powers;

(*b*) change its name;

(*c*) provide for any other matter that is authorized by this Act to be set out in the articles or that could be subject to a by-law of the credit union.

Authorization

(2) An amendment under subsection 1 shall be authorized by special resolution and such further authorization as the by-laws provide.

Articles of amendment

133. The credit union shall deliver to the Minister, within six months after the special resolution has been confirmed by the members, articles of amendment in duplicate, executed under the seal of the credit union and signed by two officers, or by one director and one officer, of the credit union and verified by affidavit of one of the officers or directors signing the articles of amendment, setting out,

(*a*) the name of the credit union;

(*b*) a certified copy of the special resolution;

(*c*) that the amendment has been duly confirmed and authorized as required by section 132; and

(*d*) the date of the confirmation of the special resolution by the members.

Certificate of amendment

134.—(1) If the articles of amendment conform to law, the Minister shall, when all prescribed fees have been paid,

(*a*) endorse on each duplicate of the articles of amendment the word "Filed" and the day, month and year of the filing thereof;

(*b*) file one of the duplicates in his office; and

(*c*) issue to the corporation or its agent a certificate of amendment to which he shall affix the other duplicate.

Effect of certificate

(2) The amendment becomes effective upon the date set forth in the certificate of amendment and the articles of incorporation are amended accordingly.

Restatement of Articles

Restatement of articles

135.—(1) Subject to subsections 2 and 3, a credit union may at any time restate its articles of incorporation as theretofore amended.

Filing of restatement

(2) The credit union shall deliver to the Minister the restated articles in duplicate, executed under the seal of the credit union and signed by two officers, or by one director and one officer, of the credit union and verified by affidavit of one of the officers or directors signing the restated articles, setting out,

(*a*) all the provisions that are then set out in the original articles of incorporation as theretofore amended; and

(*b*) a statement that the restated articles correctly set out without change the corresponding provisions of the original articles as theretofore amended.

Certificate of restatement

(3) If the restated articles of incorporation conform to law, the Minister shall, when all prescribed fees have been paid,

(*a*) endorse on each duplicate of the restated articles the word "Filed" and the day, month and year of the filing thereof;

(*b*) file one of the duplicates in his office; and

(*c*) issue to the credit union or its agent a restated certificate of incorporation to which he shall affix the other duplicate.

Effect of certificate

(4) The restated articles of incorporation become effective upon the date set forth in the restated certificate and supersede the original articles of incorporation and all amendments thereto.

RETURNS AND INSPECTIONS

Annual statements

136.—(1) A credit union shall, not later than four months after the end of its fiscal year, deliver to the Director, in the form prescribed by the regulations, a statement of operations, a balance sheet and the auditor's report, if any, and the statements shall also contain such other information as to compliance with this Act and the regulations as the Director requires.

Information for Director

(2) A credit union shall furnish the Director with such statements with respect to its business, finances and other affairs and with such other information as he requires and the board of directors, officers and employees shall cause their books and records to be open for inspection and otherwise facilitate any examination.

Verification

(3) The statement and other information required shall be certified by the supervisory committee and the president and by the treasurer or manager.

Inspection by appointee of Director

137. When the Director is required or authorized by this Act to make an examination, inspection or investigation, he may appoint in writing a duly qualified member of his staff to make such examination, inspection or investigation on his behalf.

Examination

138.—(1) The Director or any person authorized in writing by the Director shall review the annual statements received by him and he shall be given such additional information as he requires by both the Ontario Share and Deposit Insurance Corporation and the credit union and he may visit the head office of each credit union and he may inspect and examine into the conditions and affairs of any

credit union and shall be given access to all books, records and other documents and may make such inquiries as are necessary to ascertain its condition and ability to provide for the payment of its liabilities as they become due, and whether or not it has complied with this Act.

Report to Corporation

(2) Where the Director considers it necessary and believes on reasonable and probable grounds that a credit union is unable to provide for the payment of its liabilities as they become due he shall immediately report thereon in writing to the Ontario Share and Deposit Insurance Corporation.

Further examination

(3) Where the Director believes on reasonable and probable grounds that a credit union has failed to comply with the provisions of this Act or the regulations and it is expedient to make a further examination into the affairs of a credit union, the Director may, in his discretion, visit or cause a member of his staff to visit any office of the credit union to inspect and examine into its affairs and to make such further inquiries as the Director may require.

Material to be furnished on inspection

(4) For the purpose of the examination referred to in subsection 5, the credit union shall prepare and submit to the Director such statements with respect to its business, finances or other affairs, in addition to the statement mentioned in section 136, as the Director may require, and the board of directors, officers, agents and servants of the credit union shall cause its books to be open for inspection and shall otherwise facilitate such examination.

Examination under oath

1971, c. 49

(5) Upon such inspection or examination, the Director, or any person authorized by him, has the powers of a Commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to the inquiry as if it were an inquiry under that Act.

Prohibition against accepting deposits

139.—(1) Where it appears to the Director from an examination of the condition and affairs of a credit union that the assets are shown on the statement mentioned in section 136 at an amount greater than the true value, he may require the credit union to set aside out of earnings such additional reserves as he considers necessary, and, where in his opinion the value of the assets of the credit union is less than its liabilities, including the deposits and share accounts of its members, the Director may prohibit the credit union from taking further deposits or payments to its members, or may limit such payments for such period as he considers necessary to protect the interests of the members,

and he may take such other action as he considers necessary for the protection or in the interest of the members, including the calling of meetings of members and having his representative attend the meeting for the purpose of explaining the situation to the members.

Suspension of business

(2) The Director may order a credit union to discontinue doing business for such time as he determines if, after an inspection thereof, he is satisfied that the continuance in business of the credit union is not in the members interest and shall report forthwith to the Ontario Share and Deposit Insurance Corporation the order made and the reasons therefor.

EXTRA-PROVINCIAL CREDIT UNIONS

Extra-provincial credit unions

140.—(1) Where the Government of Ontario has entered into an agreement providing for reciprocal rights for credit unions with the government of a province or territory of Canada, a credit union incorporated under the laws of that province or territory may register under this Act for such purposes as are specified in the agreement.

Register

(2) The Director shall maintain a register called the "Extra-Provincial Credit Unions Register" wherein shall be recorded the names of the credit unions registered and the limited purposes to which they are subject in Ontario.

Condition precedent to licence under R.S.O. 1970, c. 89

(3) No credit union that is an extra-provincial corporation within the meaning of *The Corporations Act* shall be licensed under that Act as an extra-provincial corporation unless it has been first registered under this Act by the Director.

OFFENCES

Offences re records and inspections

141.—(1) Every person who,

(*a*) refuses or neglects to make an entry in any record required by this Act, the regulations or the by-laws to be kept;

(*b*) refuses to produce any document or record of a credit union for the purpose of any inspection, examination or investigation authorized by this Act, the regulations or the by-laws;

(*c*) obstructs any person authorized by this Act, the regulations or the by-laws to inspect, examine or investigate the affairs of the credit union,

is guilty of an offence and is liable on summary conviction to a fine of not more than $2,000.

Officers of corporations

(2) Where a corporation is guilty of an offence referred to in subsection 1, every director or officer thereof who authorized, permitted or acquiesced in the offence is also guilty of the offence and on summary conviction is liable to a fine of not more than $2,000.

Offence, false statements

142.—(1) Every person who makes or assists in making a statement in any document required by or for the purposes of this Act or the regulations or the by-laws of a credit union that, at the time and in the light of the circumstances under which it was made, is false or misleading in respect of any material fact or that omits to state any material fact the omission of which makes the statement false or misleading is guilty of an offence.

Defence

(2) No person is guilty of an offence under subsection 1 if he did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading.

Failure to file annual return

143.—(1) A credit union that is in default of filing the annual statement required by section 136 is guilty of an offence and upon summary conviction is liable to a fine of not more than $50 for each day such default continues.

Failure to pay Corporation

(2) A credit union that is in default of payment of any assessment made on it by the Ontario Share and Deposit Insurance Corporation is guilty of an offence and upon summary conviction is liable to a fine of not more than $50 for each day such default continues.

General penalty

144.—(1) Every person who is guilty of an offence under this Act for which no penalty is otherwise provided is liable on summary conviction to a fine of not more than $2,000 or, if such person is a corporation, to a fine of not more than $10,000.

Officers of corporations

(2) Where a corporation is guilty of an offence referred to in subsection 1, every director or officer thereof who authorized, permitted or acquiesced in the offence is also guilty of the offence and on summary conviction is liable to a fine of not more than $2,000.

REGULATIONS

Regulations

145. The Lieutenant Governor in Council may make regulations,

(*a*) prescribing the procedure and forms to be used under this Act;

(*b*) requiring and prescribing the fees payable for incorporation of credit unions and credit union leagues, for amalgamation of credit unions, for changing the name of credit unions, upon filing any articles of incorporation, return or other document required or permitted to be filed under this Act, for searches, and for certified copies of certificates of incorporation and other documents;

(*c*) respecting the holding of first meetings, the notice calling the meeting, the quorum, and the business to be transacted;

(*d*) prescribing matters to be shown in financial statements under clause *a* of subsection 2 of section 71;

(*e*) governing the operations and powers of branches of credit unions;

(*f*) governing credit unions and leagues of credit unions;

(*g*) prescribing any matter required by this Act to be prescribed by the regulations.

MISCELLANEOUS

Transitional continuance, of letters patent, etc.

146.—(1) The letters patent, supplementary letters patent or memorandum of association of any credit union to which this Act applies continue and shall be deemed to be amended in accordance with the provisions of this Act on the day that it comes into force and any additions or amendments to or deletions from any provision in the memorandum of association, letters patent or supplementary letters patent of a credit union shall be made in accordance with this Act.

(2) Any investment made by a credit union prior to the date of the coming into force of this Act that, but for this Act, would have been an authorized investment may be disposed of prior to maturity or held to maturity and any realized gains or losses may be brought through income accounts over the period to maturity.

Repeals

147. The following are repealed:

1. *The Credit Unions Act*, being chapter 96 of the Revised Statutes of Ontario, 1970.

2. *The Credit Unions Amendment Act, 1972*, being chapter 172.

3. *The Credit Unions Amendment Act, 1974*, being chapter 39.

4. Paragraph 10 of the Schedule to *The Age of Majority and Accountability Act, 1971*, being chapter 98.

5. Section 38 of *The Government Reorganization Act, 1972*, being chapter 1.

Commencement

148. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

149. This Act may be cited as *The Credit Unions and Caisses Populaires Act, 1976*.

The Credit Unions and Caisses Populaires Act, 1976

1st Reading

June 3rd, 1976

2nd Reading

October 26th, 1976

3rd Reading

THE HON. S. B. HANDLEMAN
Minister of Consumer and
Commercial Relations

(Reprinted as amended by the Administration of Justice Committee)

1976

Ontario. Legislative Assembly

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THE HON. S. B. HANDLEMAN
Minister of Consumer and Commercial Relations

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BILL 97 **1976**

The Credit Unions and Caisses Populaires Act, 1976

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

INTERPRETATION

1.—(1) In this Act, Interpretation

(*a*) "articles of incorporation" or "articles" means the original or restated articles of incorporation, articles of amalgamation, articles of amendment, memorandum of association, a special Act or other instrument by which a credit union is incorporated and includes any amendment thereto;

(*b*) "auditor" means a person who is a public accountant licensed under *The Public Accountancy Act*; R.S.O. 1970, c. 373

(*c*) "by-law" means a by-law approved under this Act, and includes any amendment or revocation of a by-law approved under this Act;

(*d*) "capital" means the outstanding amount that has been received from members on account of shares;

(*e*) "certificate of incorporation" includes the memorandum of association, a special Act or any other instrument by which a credit union is incorporated;

(*f*) "court" means the Supreme Court of Ontario;

(*g*) "credit union" means a corporation incorporated as a credit union or caisse populaire under this Act or a predecessor of this Act;

(*h*) "debt obligation" means a bond, debenture, note or other similar obligation of a corporation, whether secured or unsecured;

(*i*) "deposit" includes all sums placed on deposit with a credit union;

(*j*) "Director" means the Director of Credit Unions of the Ministry of Consumer and Commercial Relations;

(*k*) "financial statement" means a financial statement referred to in section 71;

(*l*) "league" means a corporation incorporated as a credit union league or federation under this Act or a predecessor of this Act;

(*m*) "member" means a person who is a member or enrolled as a member of a credit union under this Act, the articles and the by-laws of the credit union governing membership;

(*n*) "Minister" means the Minister of Consumer and Commercial Relations;

(*o*) "officer" means the president, any vice-president, treasurer, secretary, manager, assistant treasurer, assistant secretary, assistant manager and any employee who has authority to approve loans and any employee of a credit union who reports directly to the board of directors;

(*p*) "personal representative" where used with reference to holding shares or having deposits in that capacity means an executor, administrator, guardian, tutor, trustee, receiver or liquidator, or the committee of or curator to a mentally incompetent person;

(*q*) "regulations" means the regulations made under this Act;

(*r*) "related person", where used to indicate a relationship with any person, means any spouse, son or daughter of that person, or any relative of that person or of his spouse, son or daughter who has the same home as that person;

(*s*) "special resolution" means a resolution that is not effective until it is passed by the board of directors of the credit union and confirmed, with or without variations, by at least two-thirds of the votes cast at a general meeting of the members of the credit union duly called for that purpose;

(*t*) "Superintendent" means the Superintendent of Insurance;

(*u*) "surplus" means the aggregate balances of undivided earnings, statutory reserve and other reserves.

(2) For the purposes of this Act, two or more persons holding the same share or shares jointly shall be considered as one member. Joint shares

2.—(1) There shall be a Director of Credit Unions appointed by the Lieutenant Governor in Council, who shall exercise the powers and shall perform the duties conferred or imposed on him by this Act or the regulations under the supervision of the Superintendent. Director of Credit Unions

(2) *The Corporations Act* does not apply to credit unions or credit union leagues. Application of R.S.O. 1970, c. 89

INCORPORATION

3.—(1) A credit union may be incorporated under this Act by articles of incorporation for the objects stated in section 11 and the incorporation is subject to the approval of the Minister. Incorporation

(2) Any number of natural persons, not fewer than twenty, who are of the age of eighteen years or more, may apply to be incorporated as a credit union by signing and delivering to the Minister, in duplicate, articles of incorporation in the form prescribed by the regulations together with two copies of the proposed by-laws of the credit union. Application

(3) The articles of incorporation shall set out: Articles of incorporation

1. The name of the credit union to be incorporated.

2. The place in Ontario where the head office of the credit union is to be located giving the municipality and the county or district or where the head office is to be located in a territory without municipal organization, the geographic township and district, if any.

3. The name of each of the incorporators and residence address of each.

4. The number of directors of the credit union, which shall be not fewer than five, and the name and residence address, giving the street and number, if any, of each person who is a first director of the credit union.

5. Any other matter required by this Act or the regulations to be set out in the articles.

Idem

(4) The articles may set out any provision that is authorized by this Act to be set out in the articles or that could be the subject of a by-law of the credit union.

Affidavits

(5) The signature of each incorporator and each first director and the fact that each incorporator and each first director is of the age of eighteen years or more shall be verified by affidavit.

Director may direct amendment of by-laws

(6) The proposed by-laws shall be in accordance with section 16 and if the Director finds the proposed by-laws repugnant to this Act he may direct an amendment before the application is proceeded with.

Report to Minister

(7) The Director shall inquire into the circumstances, sufficiency and regularity of the articles of incorporation and accompanying proposed by-laws delivered to the Minister and may require any matter to be verified under oath and shall report thereon to the Minister.

Reasons

(8) Where the Director reports to the Minister that the articles of incorporation should not be filed, his report shall include the reasons therefor and a copy of his report shall be delivered to the incorporators.

Submissions to Minister

(9) The incorporators may, within fifteen days after receiving the report and reasons of the Director under subsection 8, make written submissions to the Minister in respect thereof.

Issuance of certificate of incorporation

(10) After considering the report of the Director and the submissions, if any, of the incorporators, the Minister may, in his discretion and after all prescribed fees have been paid,

(*a*) endorse on the duplicate of the articles the words "Filed" and the day, month and year of the filing thereof;

(*b*) file one of the duplicates in his office; and

(*c*) issue to the incorporators or their agent a certificate of incorporation to which he shall affix the other duplicate.

Effect of incorporation

(11) A credit union comes into existence upon the date set forth in its certificate of incorporation and the certificate of incorporation, the articles of incorporation, and the by-laws

of the credit union, together with this Act, constitute the charter of the credit union.

Notice

(12) A certificate of incorporation is conclusive proof that all conditions precedent required to be performed by the incorporators have been complied with and that the credit union has been incorporated under this Act, except in a proceeding under section 122.

Name

4.—(1) No credit union shall be incorporated under a name identical with that of any other credit union or of any corporation or organization or under a name so nearly resembling that of any other credit union, corporation or organization as, in the opinion of the Minister, to be likely to deceive or under a name that may otherwise, in the opinion of the Minister, be objectionable on public grounds.

Change if objectionable

(2) If a credit union, through inadvertence or otherwise, has acquired a name contrary to subsection 1, the Minister may, after he has given the credit union an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the credit union to the name specified in the certificate, and upon issuance of the certificate of amendment, the articles are amended accordingly.

Use of "credit union"

5.—(1) The name of a credit union shall include the words "credit union" or "caisse populaire" as part thereof.

Use of "Limited"

(2) The name of the credit union shall have the words "Limited" or "Limitée", or "incorporated" or "incorporée", or its corresponding abbreviation "Ltd", "Ltée", or "Inc" as the last word thereof.

Exception from subs. 1

(3) Notwithstanding subsection 1, a credit union incorporated under a predecessor of this Act may continue to use the name under which it was incorporated.

Use of name

6. Notwithstanding section 5, a credit union may use its name in such form and in such language as the articles provide and as the Minister approves.

Effect of change of name

7. A change of name of a credit union does not affect its rights and obligations.

Use of words "credit union"

8. Any person, not being a credit union or league to which this Act applies, who carries on business under a name or title in which the words "credit union" or "caisse populaire" are used is guilty of an offence.

Seal

9.—(1) A credit union shall have a seal, which shall be adopted and may be changed by resolution of the directors.

Idem

(2) The name of the credit union shall appear in legible characters on the seal.

Head office

10.—(1) A credit union shall at all times have its head office in Ontario at the place where its articles provide.

Change

(2) A credit union may by by-law change the geographic location of its head office to another place in Ontario if such change would better serve its purpose and objects.

Objects of credit unions

11.—(1) The articles of a credit union shall state its objects and purposes as being the promotion of co-operative enterprise, the facilitating of the accumulation of savings and the creation of a source of credit for its members at conscionable rates of interest and the provision of full financial services for its members and every credit union shall be deemed to have such objects in its articles.

Ancillary powers

(2) For the purpose of carrying out its objects, subject to the other provisions of this Act, the regulations, the articles and the by-laws of the credit union, every credit union has power as incidental and ancillary to its objects,

1. to receive moneys on deposit from members and as payment for shares;

2. to make loans to members, with or without security;

3. to make loans to other credit unions, where the loans are approved by the Ontario Share Deposit Insurance Corporation;

4. to deposit moneys with, invest in shares of, or make loans to, any league;

5. to make donations and gifts out of the surplus income or any undivided earnings for the purpose of advancing the interest of the credit union or of credit unions generally and for charitable purposes;

6. to purchase, lease, or take in exchange, hire or otherwise acquire any personal property and any right or privilege the credit union considers necessary or convenient for the purpose of the credit union;

7. to invest funds of the credit union;

8. where authorized to do so by a special resolution, to sell, lease, exchange or otherwise dispose of all or substantially all the property of the credit union for such consideration as the credit union considers appropriate;

9. to construct, maintain and alter any buildings or works necessary for its objects;

10. to lease and, where authorized by by-law, to acquire by purchase or otherwise and hold any real property or interest therein necessary for its present or future use and occupation or for carrying on its undertaking, and, when no longer necessary therefor, to sell, alienate or convey it;

11. to take, hold, alienate, realize on, or otherwise dispose of any real or personal property that has been mortgaged or pledged to the credit union by way of security for, or conveyed to it in satisfaction of loans made in the course of business or otherwise purchased for the purpose of avoiding a loss to the credit union;

12. to draw, make, accept, endorse, execute, discount and issue promissory notes, bills of exchange, bills of lading, warrants and other negotiable or transferable instruments;

13. subject to such conditions as are prescribed by the regulations, to establish and operate branch offices to provide credit union services;

14. to pay all costs and expenses of, or incidental to, the incorporation and organization of the credit union;

15. to establish and support or aid in the establishment and support of or the subscription to, associations, institutions, funds or trusts for the benefit of employees or former employees of the credit union or its predecessors, or the dependants or connections of such employees or former employees, and grant pensions and allowances, and make payments towards insurance or for any object similar to those set forth in this paragraph, and to subscribe or guarantee money for charitable, benevolent, educational or religious objects or for any exhibition or for any public, general or useful objects;

16. to adopt means of making known the services of the credit union, and in particular by advertising, by purchase and exhibition of works of art or interest, by publication of books and periodicals or by granting prizes, rewards and making donations;

17. to deposit money in chartered banks, the Province of Ontario Savings Office, or loan companies and trust companies registered under *The Loan and Trust Corporations Act*;

R.S.O. 1970, c. 254

18. to contract and sue and be sued in the corporate name;

19. to purchase group insurance for its members;

20. to perform any of the things authorized by this section as principal or agent and either alone or in conjunction with others;

21. to perform all such other things as are incidental or conducive to the attainment of the objects and the exercise of the powers of the credit union;

22. to have perpetual succession;

23. to carry on any other business capable of being conveniently carried on in connection with its business or likely to enhance the value of or make profitable any of its property or rights;

24. to acquire and hold shares in any other company having objects altogether or in part similar to those of the credit union or carrying on any business capable of being conducted so as to benefit the credit union;

25. to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with the property of the credit union in the ordinary course of its business;

26. to provide safekeeping facilities and services for personal property;

27. to provide services for the collection and payment of moneys from and on behalf of its members;

28. to provide such programs and services for its members as in the opinion of the board of directors may assist the members to meet their financial or social needs;

29. subject to the approval of the Director, to accept custody of assets for specific purposes or under specific terms and conditions and to act as an agent

to carry out such purposes, such purposes to include, but not be restricted to, the custody of funds deposited under registered retirement savings plans and registered home ownership savings plans.

(3) Any of the powers set out in subsection 2 may be withheld or limited by the articles. Limitation of powers

(4) Every credit union may exercise its powers beyond the boundaries of Ontario to the extent to which the laws in force where the powers are sought to be exercised permit, and may accept extra-provincial powers and rights. Power to act outside Ontario

LEAGUES

12.—(1) Ten or more credit unions may be incorporated as a league or federation for the object and purpose of, Leagues

(*a*) protecting and advancing the credit unions that are members of the league;

(*b*) providing encouragement and assisting in programs and activities contributing to the growth and development of member credit unions;

(*c*) conducting training programs for the general improvement of managers, employees and members of the board of directors and committees of member credit unions;

(*d*) arranging for pension plans, group bonding and group insurance of all kinds for the officers, employees and members of credit unions and assisting in repayment of loans made by credit unions to their members;

(*e*) receiving moneys from their member credit unions or the Ontario Share Deposit Insurance Corporation, either as payment on shares or as deposits;

(*f*) making loans to credit unions that are members of the league;

(*g*) providing services to or for its member credit unions that, in the opinion of the directors of the league, are incidental or conducive to the sound operation or to the attaining of the purposes of its members.

(2) Any competent person authorized by a league may examine into the affairs of any credit union that is a member of the league and for such purpose he shall be given access Examination by league

to all books, records and other documents of the credit union and he may make whatever inquiries are necessary to ascertain its true condition and its ability to provide for the payment of its liabilities as they become due, and the officers and employees of the credit union shall facilitate him in his examination and inquiry.

Act to apply to leagues

(3) The provisions of this Act applicable to credit unions apply *mutatis mutandis* to leagues and their incorporation except where inconsistent with this section, but the Lieutenant Governor in Council may by regulation declare that any provision of this Act does not apply to leagues.

Ancillary powers

(4) Every league has power as incidental and ancillary to its objects,

(*a*) to apply to and enter into any agreement with the Canada Deposit Insurance Corporation, the Ontario Share and Deposit Insurance Corporation, the Government of Canada, the Government of Ontario, a chartered bank or other corporation or person, to obtain loans or other financial assistance;

(*b*) to act as agent or subagent for primary or secondary distribution of bonds, debentures or other evidences of indebtedness of or guaranteed by the Government of Canada or any province or municipal corporation in Canada and for that purpose trade in such bonds, debentures or other evidences of indebtedness to the extent necessary;

(*c*) to become a member of, buy shares in, deposit money with or borrow money from any other league or any co-operative credit society or association as defined in the *Co-operative Credit Associations Act* (Canada) or any other like institution incorporated under the laws of Canada or any province;

R.S.C. 1970, c. C-29

(*d*) when authorized by the Director, to establish, arrange for and maintain trust funds for the benefit of the member credit unions;

(*e*) to invest in the fully paid shares of,

(i) any corporation registered under *The Loan and Trust Corporations Act*, or

R.S.O. 1970, c. 254

(ii) with the approval of the Superintendent, any company incorporated to carry on any other business reasonably ancillary to the business of a credit union or a league,

provided that if such investment exceeds 30 per cent of the voting common shares of a corporation, the league shall own at least 51 per cent of the voting common shares of the corporation;

(*f*) to provide such other services as may be authorized by the regulations.

Application of R.S.C. 1970, c. C-29

(5) A league may accept and exercise all rights, powers, privileges and immunities conferred on it by the *Co-operative Credit Associations Act* (Canada).

Withdrawal

(6) Any credit union that is a member of a league may withdraw from membership if authorized by resolution passed by a majority of the votes cast at a general meeting duly called for the purpose.

CONTRACTS

Acting outside powers

13.—(1) No act of a credit union and no transfer of real or personal property to or by a credit union, otherwise lawful, that is heretofore or hereafter done or made, is invalid by reason of the fact that the credit union was without capacity or power to do such act or make or receive such transfer, but such lack of capacity or power may be asserted,

(*a*) in a proceeding against the credit union by a member under subsection 2;

(*b*) in a proceeding by the credit union, whether acting directly or through a receiver, liquidator, trustee or other legal representative or through members in a representative capacity, against a director or officer or former director or officer of the credit union; or

(*c*) as cause for the cancellation of the certificate of incorporation of the credit union.

Restraining order

(2) A member of a credit union may apply to the court for an order to restrain the credit union from doing any act or transferring or receiving the transfer of real or personal property on the ground that the credit union lacks capacity or power for the purpose, and the court may, if it considers it to be just and equitable, grant an order prohibiting the credit union from doing the act or transferring or receiving the transfer of the real or personal property, but, where the act or transfer sought to be restrained or prohibited is being or to be done or made under a contract to which the credit union is a party,

(*a*) all the parties to the contract shall be parties to the proceeding;

(*b*) the court in granting the order may set aside the contract and allow the credit union or other parties to the contract, as the case may be, such compensation as may be equitable for the loss or damage sustained by any of them from the granting of the order and setting aside of the contract, other than anticipated profits from the contract.

Contracts in writing under seal

14.—(1) A contract that if entered into by an individual person would by law be required to be in writing and under seal may be entered into on behalf of a credit union in writing under the seal of the credit union.

Contracts in writing under seal

(2) A contract that if entered into by an individual person would by law be required to be in writing signed by the parties to be charged therewith may be entered into on behalf of a credit union in writing signed by any person acting under its express authority.

Parol contracts

(3) A contract that if entered into by an individual person would by law be valid although made by parol only and not reduced into writing may be entered into by parol on behalf of a credit union by any person acting under its express authority.

Prior consent of Director

15. A credit union shall not acquire, purchase or lease real estate for its own use where the cost of such real estate or building or of the lease over its duration is in an amount equal to more than 8 per cent of the total share capital and deposits of a credit union without the prior written consent of the Director.

BY-LAWS

Extent of by-laws

16.—(1) The directors may pass by-laws not contrary to this Act or to the articles to regulate,

(*a*) the fees, terms and conditions of admission to, and withdrawal, suspension and expulsion from, membership in the credit union;

(*b*) the allotment and recording of shares, the maximum number that may be alloted to any member, the payment for shares and the withdrawal or transfer of shares;

(*c*) the terms, conditions and limitations under which deposits may be made with or withdrawn from the credit union;

(*d*) the terms, conditions and limitations for loans made by the credit union and the interest thereon;

(*e*) the time and place of and the notice and the record date for the determination of members entitled to vote to be given for the holding of meetings of members and of the board of directors, the quorum of meetings of members and the procedure and language to be used in all matters relative to the operation of the credit union;

(*f*) the time for and manner of election of directors, and the remuneration of directors;

(*g*) the appointment, remuneration, functions, duties and removal of officers and employees of the credit union and the security, if any, to be given by them to it;

(*h*) the purposes for which the profits of the credit union may be appropriated or distributed by way of rebate of interest on loans, by dividends or otherwise;

(*i*) where the credit union is a member of a league, a yearly assessment of its members to be paid to the league to assist in its financing;

(*j*) the conduct in all other particulars of the affairs of the credit union.

Membership in league

(2) Subject to clause *i* of subsection 1, a credit union may become a member of a league by resolution passed by a majority of the votes cast at a general meeting duly called for the purpose.

Remuneration of directors

17.—(1) A by-law relating to the remuneration of directors may provide that the board of directors by resolution shall fix the remuneration and period for which it is to be paid.

Delegation to board

(2) A by-law may provide that the board of directors may by resolution exercise the powers referred to in clause *c*, *d*, *g* or *h* of subsection 1 of section 16.

Passing of by-laws

18.—(1) No by-law is effective until it is,

(*a*) passed by the board of directors of a credit union;

(*b*) confirmed, with or without variation, by at least two-thirds of the votes cast at a general meeting of the members of the credit union duly called for that purpose, or such greater proportion of the votes cast as the articles provide; and

(*c*) approved by the Director in the manner prescribed in this section.

Submission to Director

(2) Upon the confirmation of a by-law under clause *b* of subsection 1, the board of directors shall forward to the Director two copies thereof signed by two officers or one officer and one director.

Approval by Director

(3) The Director shall signify his approval by certifying the approval on one copy of the by-law with the date of the approval and returning it to the credit union.

Amendments upon approval

(4) Any amendment required by the Director as a condition of his approval may be made by the board of directors unless the amendment alters the intent of the by-law.

Copies of by-laws

19. A copy of the by-laws of a credit union shall be delivered by the credit union to a member on demand on payment of a fee fixed by the by-laws, which shall not exceed the amount prescribed therefor by the regulations.

CAPITAL

Capital

20.—(1) The capital of a credit union shall be divided into shares with par value and the amount thereof shall be determined by the by-laws of the credit union, but the par value of each share shall in no case exceed $10.

Capital, how increased and diminished

(2) The subscribed capital of a credit union may, subject to the by-laws, be increased by payment for shares by members, and may be diminished by withdrawal of such payments by members.

Fully paid shares only

(3) No share in a credit union shall be allotted until it is fully paid for and a share is not fully paid until payment in cash therefor has been received by the credit union.

No commission on shares

(4) No commission, discount, allowance, or other compensation shall be paid or allowed by a credit union in consideration of the subscription for or sale of any of its shares.

Shares are personal property

(5) The shares of a credit union are personal property.

Additional shares

(6) The payment on account of shares by a member and the receipt thereof by a credit union shall be deemed to be an allotment of such shares to the members.

Member's liability for shares

(7) A member is not liable to the credit union for shares subscribed for in excess of the amount actually paid thereon.

(8) Where the board of directors determines that the credit union has suffered an impairment of capital, the board may by resolution fix the proportion of money invested in shares that may be withdrawn, and so long as any impairment of capital exists, may from time to time change the proportion that may be withdrawn. Where capital impaired

(9) No member of a credit union shall withdraw any portion of the money invested in shares in excess of the proportion specified in the resolution under subsection 8, or set off against any debts owing by him to the credit union a greater proportion of the money invested in shares than is specified in the resolution. Idem

(10) No resolution passed under subsection 8 applies to money invested in shares after the date of the resolution. Idem

BORROWING

21.—(1) Subject to the qualifications, limitations and restrictions in this Act, the board of directors of a credit union, when authorized by by-law, may, Borrowing by-law

(*a*) borrow money by way of loan, exclusive of money received on deposit, at such rates of interest and upon such terms as the board of directors may from time to time determine in an amount, exclusive of money on deposit, not exceeding 25 per cent of the paid-in capital, deposits and surplus of the credit union, but when specifically authorized by by-law, the total amount borrowed, exclusive of money received on deposit, may be an amount not exceeding 50 per cent of the total of the paid-in capital, deposits and surplus of the credit union;

(*b*) subject to clause *a*, charge, mortgage, hypothecate or pledge all or any currently owned or subsequently acquired real or personal, movable or immovable property of the credit union, including book debts, rights, powers and franchises and undertaking, to secure any debt obligation or any money borrowed, or other debt or liability of the credit union.

(2) Clause *a* of subsection 1 does not apply to a league. Leagues excepted

22.—(1) A credit union shall not borrow by the issue of a debenture. Not to issue debentures

(2) Subsection 1 does not apply to a league. Leagues excepted

23. The Director may from time to time inquire into the borrowing of a credit union and may limit the authority of the board of directors of a credit union to further borrow by giving notice of the limitation by registered mail to the Limitation by the director

board setting forth his reasons for limiting the borrowing powers and a credit union shall not exercise its borrowing powers in excess of any limitation imposed by the Director.

REGISTERS

Register of members

24.—(1) Every credit union shall keep a register of members and shares.

Certificate as evidence

(2) A statement as to,

(*a*) the names and addresses of the members and the number of shares held by each member;

(*b*) the date on which the name of any person was entered in the register as a member; or

(*c*) the date on which any person ceased to be a member,

purporting to be certified by the secretary is, without proof of the office or signature of the secretary, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

Documents to be kept

(3) Every credit union shall keep or cause to be kept the following documents and registers in either English or French only,

(*a*) a copy of its articles;

(*b*) the by-laws and resolutions, including special resolutions, of the credit union;

(*c*) a register of the members of the board of directors, credit committee and supervisory committee, and all officers of the credit union, setting out their names, residence addresses, giving the street and number, if any, and occupations, with the several dates on which they have become or ceased to be a member of such board or committee;

(*d*) a register of all securities held by the credit union;

(*e*) books of account and accounting records with respect to all financial and other transactions of the credit union as may be required by the Director;

(*f*) the minutes of all proceedings at meetings of members, directors and any committees.

MEMBERS

Membership

25. Subject to the provisions of this Act and its articles, membership in a credit union is governed by its by-laws.

Incorporators deemed members

26.—(1) Each incorporator of a credit union who has subscribed for a share in the credit union becomes a member upon the effective date of incorporation and shall be entered upon the register of members.

Subscription deemed application

(2) A subscription for shares in a credit union constitutes an application for membership and the allotment of a share to the applicant constitutes admission to membership.

Applicants for membership

(3) Subject to subsection 1, no person shall become a member of a credit union until his application for membership has been approved by the board of directors or an officer authorized by the board and the applicant has complied fully with the by-laws governing admission of members.

Membership limitation

27.—(1) Subject to subsection 2, the by-laws of every credit union shall provide that the membership of the credit union shall be limited to persons or related persons having a common bond of occupation or association or to persons or related persons residing or working within a municipality, neighbourhood or other reasonably well-defined community.

Removal of limitation

(2) A credit union may apply to the Director for the repeal from its by-laws of the provisions referred to in subsection 1 and the Director, if he is satisfied that the credit union has a sufficient membership, capital and money on deposit and is being operated in a satisfactory manner, may approve the repealing by-law and permit its filing on such terms as the Director sees fit.

Director's approval

(3) The Director shall not approve a by-law of a credit union under subsection 2 unless the credit union proposes to have a full-time management and a self-contained place of business and would be, in his opinion, capable of providing a satisfactory service to its members.

Register of members

28. Every person whose name is registered in the register of members is entitled to,

(*a*) a passbook or other record specifying the amount paid upon shares, deposits and loans by him; and

(*b*) such other information as may be prescribed by the by-laws of the credit union,

and the passbook or other record is admissible in evidence as *prima facie* proof of membership and of the information entered therein.

Voting

29.—(1) A member of a credit union has only one vote.

Proxies permitted

(2) No member of a credit union shall vote by proxy except when such member is a corporation, an unincorporated association or a municipality as defined in *The Municipal Affairs Act*.

R.S.O. 1970, c. 118

Liability of members

30. A member is not responsible for any act, default or liability of the credit union, or for any engagement, claim, payment, loss, injury, transaction, matter or thing relating to or connected with the credit union beyond the amount paid on his share or shares.

Not bound by trust

31. A credit union is not bound to see to the execution of any trust, whether express, implied or constructive to which any share or deposit is subject.

Shares in trust

32. A member, in addition to holding shares in his own name, may subscribe for and hold shares and make deposits in trust for a named beneficiary, and such beneficiary without payment of any entrance fee shall be deemed to be a member of the credit union only for the purpose of qualifying for life insurance under a group policy of insurance purchased by the credit union on the lives of its members and is not entitled to notice of meetings or to vote at meetings.

Joint accounts

33. Two or more members may hold their shares and deposits in a joint account and, in the absence of written notice to the contrary, payment by the credit union to any of such members or to the survivor or any of the survivors of such members of any money standing to the credit of the joint share or deposit account discharges the credit union from any further liability for such payment.

Ages of members

34.—(1) A person under the age of eighteen years may be a member of a credit union, and every such member may enjoy all the rights of a member and execute all instruments and give all acquittances necessary to be executed or given but is not entitled to vote unless permitted to do so by the by-laws.

Right to borrow

(2) Subject to the by-laws, a member under the age of eighteen years does not have the right to borrow any amount in excess of his deposits in the credit union except upon a joint and several promissory note signed by him and by a person eighteen years of age or over.

Deposits

(3) A member under the age of eighteen years may deposit money with a credit union in his own name, and the money so deposited may be repaid to him, and he

may give a valid discharge therefor, notwithstanding his minority.

Corporate and partnership members R.S.O. 1970, cc. 118, 340

35. A corporation including a municipality as defined in *The Municipal Affairs Act*, an unincorporated association or a partnership registered under *The Partnerships Registration Act* may become a member of a credit union on such terms and conditions as are prescribed by the regulations.

Transmission of shares

36.—(1) Subject to section 37 and *The Succession Duty Act*, where a transmission of a share in a credit union takes place by virtue of any testamentary act or instrument, or in consequence of an intestacy, if the probate of the will or letters of administration or document testamentary, or other judicial or official instrument under which the title, whether beneficial or as trustee, or the administration or control of the personal estate of the deceased is claimed to vest, purports to be granted by any court or authority in any country, the probate of will or letters of administration or document testamentary or other judicial or official instrument or an authenticated copy thereof, or an official extract therefrom, may, together with a declaration in writing showing the nature of the transmission and signed and executed by the person claiming by virtue thereof, be produced and deposited with the secretary or officer named by the board of directors of the credit union for the purpose of receiving it.

Proof

(2) The production and deposit specified in subsection 1 shall be sufficient authority to the board of directors to pay the amount or value of any obligation on shares, in pursuance of, and in conformity with the letters probate, letters of administration, or other instrument.

Payment of moneys re deceased member

37.—(1) Where a member of a credit union dies, the credit union may pay,

(*a*) an amount not exceeding an amount prescribed by the regulations out of the amount on deposit in the name of the deceased or for the shares of the deceased; and

(*b*) an amount not exceeding an amount prescribed by the regulations out of any money that is received by the credit union under any policy of insurance on the life of the deceased,

to any person who the board is satisfied, by statutory declaration attested to not sooner than thirty days after the death, is entitled.

Effect of payment

(2) A payment made under subsection 1 discharges any obligation of the credit union or its board of directors in

respect of the money paid but does not affect the right of any other person claiming to be entitled to recover such money from the person to whom it was paid.

Deposits or shares in trust

(3) Where a member of a credit union dies holding shares or money on deposit in his name in trust for a named beneficiary, the credit union may pay the amount of such shares or deposit and any interest thereon to the executor or administrator of the estate of the deceased member, subject to the trusts or, where there is no executor or administrator, to the beneficiary or, where the beneficiary is a minor, to his parent or guardian.

Lien for debt

38. A credit union has a lien on the shares and deposits of a member for any debt due to it by him, and may set off any sum standing to the credit of such member on the books of the credit union in or towards the payment of such debt.

Unclaimed credits

39. Where moneys are held by a credit union for the credit of one of its members by reason of a deposit made or shares held by such member and the credit union is unable after reasonable efforts to locate the person entitled to such moneys, the credit union may pay such moneys to the Treasurer of Ontario and the Treasurer of Ontario may pay such moneys to the person entitled thereto upon satisfactory proof being furnished that he is the person entitled to receive such moneys.

Withdrawal of members

40.—(1) A member of a credit union may withdraw from a credit union at any time by giving notice thereof in accordance with the by-laws.

Idem

(2) A deceased member shall be deemed to have given notice to the credit union of his intention to withdraw on the day of his death.

Payment to withdrawing member

(3) All amounts paid to the credit union on shares and deposits by a withdrawing member shall, after deducting all amounts due from the member to the credit union, be paid to such member within ninety days of his giving notice of his intention to withdraw.

Idem

(4) A withdrawing member is entitled to receive any dividend, interest or rebate of loan interest paid or payable to other members of the credit union as at the date of his withdrawal on the same conditions that the board of directors have made applicable to all members of the credit union.

Notice of withdrawal

(5) Subject to subsection 3, a member who has given

notice of withdrawal, or is expelled from a credit union, has no further rights in the credit union, but he is not, by the withdrawal or expulsion, released from any remaining liability to the credit union.

Extension of time

(6) Where, in the opinion of the board of directors of the credit union, the payments in accordance with subsections 3 and 4 would not be in the best interests of the credit union, the board may by resolution suspend such payments for a period of one year or for such greater period and on such terms and conditions as the Director may approve.

Expulsion of members

41.—(1) Subject to subsection 2, a member may be expelled from membership in a credit union for misconduct in the affairs of the credit union or for failure to abide by the conditions of membership set out in the by-laws by a resolution passed by a majority of the members at a meeting duly called for that purpose.

Notice of misconduct

(2) A resolution under subsection 1 is not valid unless,

(*a*) a charge constituting grounds for expulsion has been made against the member by another member by filing with the board of directors full particulars in writing of such misconduct signed by him;

(*b*) the member charged has been furnished with a copy of the particulars at least four weeks previous to the meeting at which the resolution is to be considered; and

(*c*) an opportunity is given to the member charged to appear either personally or by counsel or his agent to make submissions at the meeting of the members called to consider the resolution expelling him.

Notice of meeting

(3) The notice calling the meeting of members shall state that the charge has been made and specify the names of the members concerned.

Refund to expelled member

(4) A member who is expelled is entitled to a refund of the amount paid on his shares and his deposits with the credit union as well as any dividends, interest or rebate of loan interest paid or payable to other members of the credit union as of the date of his expulsion on the same conditions that the board of directors have made applicable to all members of the credit union.

Representative action

42.—(1) Subject to subsection 2, a member of a credit union may maintain an action in a court of competent

jurisdiction in a representative capacity for himself and all other members of the credit union suing for and on behalf of the credit union to enforce any right, duty or obligation owed to the credit union under this Act or under any other statute or rule of law or equity that could be enforced by the credit union itself, or to obtain damages for any breach of any such right, duty or obligation.

Court order required

(2) An action under subsection 1 shall not be commenced until the member has obtained an order of the court permitting the member to commence the action.

Notice

(3) A member may, upon at least seven days notice to the credit union, apply to the court for an order referred to in subsection 2, and, if the court is satisfied that,

(*a*) the member was a member of the credit union at the time of the transaction or other event giving rise to the cause of action;

(*b*) the member has made reasonable efforts to cause the credit union to commence or prosecute diligently the action on its own behalf; and

(*c*) the member is acting in good faith and it is *prima facie* in the interests of the credit union or its members that the action be commenced,

the court may make the order upon such terms as the court thinks fit.

Costs

(4) At any time or from time to time while an action commenced under this section is pending, the plaintiff may apply to the court for an order for the payment to the plaintiff by the credit union of reasonable interim costs, including solicitor's and counsel fees and disbursements, for which interim costs the plaintiff shall be accountable to the credit union if the action is dismissed on final disposition at the trial or on appeal.

Action not to be discontinued, etc., without court approval

(5) An action commenced under this section shall not be discontinued, settled or dismissed for want of prosecution without the approval of the court and, if the court determines that the interests of the member or any class thereof may be substantially affected by such discontinuance, settlement or dismissal, the court, in its discretion, may direct that notice in manner, form and content satisfactory to the court shall be given, at the expense of the credit union or any other party to the action as the court directs, to the members or class thereof whose interests the court determines will be so affected.

DIRECTORS

43.—(1) Each of the persons named as first directors in the articles of a credit union is a director of the credit union until replaced by a person duly elected or appointed in his stead. First directors

(2) The first directors of a credit union have all the powers and duties and are subject to all the liabilities of directors. Idem

44.—(1) Every credit union shall have a board of directors who shall be elected from its members in the manner provided in its by-laws and who shall hold office for such term as the by-laws provide and until their successors are elected. Election

(2) A credit union may by by-law increase or decrease the number of its directors set out in the articles, subject to the minimum. Change in number

(3) A member entitled to vote at an election of directors, if he votes, shall cast thereat a number of votes equal to the number of directors to be elected, and the member shall distribute the votes among the candidates in such manner as he sees fit, but no candidate shall receive more than one vote from each member. Voting

45.—(1) No person shall be a director of a credit union unless he is a member thereof and of the full age of eighteen years, and, if he ceases to be a member, he thereupon ceases to be a director. Directors to be members

(2) No member shall be a director of a credit union unless he is a Canadian citizen, or is a person lawfully admitted to Canada for permanent residency who is ordinarily resident in Canada. Qualifications

(3) No person shall be a director of a credit union who is a full-time employee of the credit union. Conflict of interest

46.—(1) The board of directors shall manage or supervise the affairs and business of the credit union and perform such duties as prescribed by this Act, the regulations and the by-laws of the credit union. Duties of board

(2) The by-laws may provide for the election and retirement of directors in rotation, but in that case no director shall be elected for a term of more than three years. Election in rotation

(3) A majority of the board of directors constitutes a quorum. Quorum

Continuance in office

(4) If an election of directors is not held within the prescribed period, the directors continue in office until their successors are elected.

Vacancies

(5) Where a vacancy occurs in the board and a quorum of directors remains, the directors remaining in office may appoint a qualified person to fill the vacancy until the next annual meeting of the credit union.

Where no quorum

(6) When there is not a quorum of directors in office, the director or directors then in office shall forthwith call a general meeting of the members to fill the vacancies, and, in default or if there are no directors then in office, the meeting may be called by any member.

Expulsion of directors

47.—(1) When a member of the board of directors fails to attend three consecutive meetings of the board without, in the opinion of the board, having a reasonable cause therefor or fails to perform any of the duties allotted to him as a director, his position on the board may be declared vacant by the remaining directors who may appoint a qualified person to fill the vacancy until the next annual meeting of the credit union.

Removal of directors

(2) The members may, by resolution passed by two-thirds of the votes cast at a general meeting duly called for the purpose, remove a director before the expiration of his term of office, and shall by vote cast at that meeting elect another director in his stead for the remainder of his term.

Notice

(3) The notice calling the meeting of the members referred to in subsection 2 shall specifically state that the purpose of the meeting is to remove the director who is named therein.

Right to make representations

(4) The director has the right at the meeting to make such representations to the members regarding the resolution for his removal as he thinks fit and may be represented by legal counsel or an agent.

CREDIT COMMITTEE

Credit committee

48.—(1) Subject to section 50, every credit union shall have a credit committee who shall be elected from its members in the manner prescribed by its by-laws and who shall hold office for such term as the by-laws provide and until their successors are elected.

Number of members

(2) The credit committee shall consist of the number of members fixed by the by-laws, which shall be not fewer than three.

Qualifications

(3) No person who is a member of the board of directors

or of the supervisory committee or who is an officer of the credit union shall be a member of the credit committee, except that the president may be a member of the credit committee if he is so authorized by by-law.

Age

(4) No member shall be a member of the credit committee unless he is of the full age of eighteen years.

Quorum

(5) A majority of the credit committee, not including the president, constitutes a quorum.

Voting at election

(6) A member entitled to vote at an election of members of the credit committee, if he votes, shall cast thereat a number of votes equal to the number of members of the credit committee to be elected, and the member shall distribute the votes among the candidates in such manner as he sees fit, but no candidate shall receive more than one vote from each member.

Vacancies

(7) Where a vacancy occurs in the credit committee, the board of directors may fill all vacancies until the next annual meeting of the credit union.

Election in rotation

(8) The by-laws of the credit union may provide for the election and retirement of members of the credit committee in rotation, but in that case no member of the credit committee shall be elected for a term of more than three years.

Duties

49.—(1) The credit committee shall consider all applications for loans and within the limits provided in the by-laws approve all loans to members of the credit union and perform such duties as are prescribed by this Act, the regulations and the by-laws of the credit union.

Removal of member

(2) When a member of the credit committee fails to attend three consecutive meetings without, in the opinion of the other members of the committee, having a reasonable cause therefor or fails to perform any of the duties allotted to him as a member of the committee, his position on the committee may be declared vacant by the other members of the committee who may then appoint a qualified person to fill the vacancy until the next annual meeting of the credit union.

Loan officer

50.—(1) The board of directors of a credit union may by by-law appoint one or more persons who are employees of the credit union, to act as a loan officer and perform all or such part of the duties of the credit committee as are specified by the by-law.

May supersede credit committee

(2) If the by-law provides that the person or persons so appointed shall perform all the duties of the credit committee, it shall also provide that as long as the by-law remains in force, it shall not be necessary to elect a credit committee as required by section 48 or that, as long as the by-law remains in force, the credit committee shall have only the powers of an advisory committee.

Officer to approve loan

51.—(1) The credit committee may, upon such terms and conditions as the board of directors may specify, authorize the treasurer, manager or other employee of the credit union to approve loans to a member.

Monthly report

(2) Any person authorized by the credit committee to approve loans under subsection 1 shall submit a written monthly report to the credit committee stating the number of loan applications received, the number of loans granted and the security, if any, obtained for such loans.

Duties of such persons appointed

(3) The responsibilities and duties of any person authorized to approve loans under subsection 1 is concurrent with the responsibilities and duties of the credit committee.

Credit committee reports

52. The credit committee shall hold meetings not more than three months apart, shall keep minutes of its meetings and shall,

(*a*) submit a written report to the board of directors stating the number of loan applications received, the number and category of loans granted, the security obtained for such loans together with a report on applications denied and a report on all loans that are delinquent; and

(*b*) submit a written annual report on such matters to the annual meeting of the credit union.

Removal of member

53.—(1) The members may, by resolution passed by two-thirds of the votes cast at a general meeting duly called for the purpose, remove a member of the credit committee before the expiration of his term of office, and shall by vote cast at that meeting elect another member in his stead for the remainder of his term.

(2) The notice calling the meeting of members referred to in subsection 1 shall specifically state that the purpose of the meeting is to remove the member of the credit committee who is named therein. Notice

(3) The member of the credit committee has the right to make such representations at the meeting regarding the resolution for his removal as he thinks fit, and may be represented by legal counsel or an agent. Right to make representations

SUPERVISORY COMMITTEE

54.—(1) Subject to section 58, every credit union shall have a supervisory committee who shall be elected from its members in the manner prescribed in its by-laws and shall hold office for such term as the by-laws provide and until their successors are elected. Supervisory committee

(2) The supervisory committee shall consist of the number of members fixed by the by-laws, which shall be not fewer than three. Composition

(3) No person who is a member of the board of directors or credit committee or who is an officer of the credit union shall be a member of the supervisory committee. Qualifications

(4) No member shall be a member of the supervisory committee unless he is of the age of eighteen years. Age

(5) A majority of the supervisory committee constitutes a quorum. Quorum

(6) A member entitled to vote at an election of members of the supervisory committee, if he votes, shall cast thereat a number of votes equal to the number of members of the supervisory committee to be elected, and the member shall distribute the votes among the candidates in such manner as he sees fit, but no candidate shall receive more than one vote from each member. Voting at election

(7) Where a vacancy occurs in the supervisory committee, the board of directors may fill all vacancies until the next annual meeting of the credit union. Vacancies

(8) The by-laws of the credit union may provide for the election and retirement of members of the supervisory committee in rotation, but in that case no member shall be elected for a term of more than three years. Election in rotation

55.—(1) The supervisory committee shall examine the books of the credit union, confirm the cash instruments, property and securities of the credit union and confirm the deposits of the members and perform such other duties as Duties

are prescribed by this Act, the regulations and the by-laws of the credit union.

Idem

(2) When a member of the supervisory committee fails to attend three consecutive meetings of the committee without, in the opinion of the supervisory committee, having a reasonable cause therefor, or fails to perform any of the duties allotted to him as a member of the committee, his position on the committee may be declared vacant by the remaining members of the committee who may appoint a qualified person to fill the vacancy until the next annual meeting of the credit union.

Clerks

(3) The supervisory committee may appoint such persons as it considers necessary to assist it in performing its duties, but the remuneration to be paid to such persons is subject to the approval of the board of directors.

Duty when misappropriation, etc.

56.—(1) When the supervisory committee is of the opinion that the funds, securities or other property of the credit union have been misappropriated or misdirected, or in the event that the by-laws of the credit union, this Act or the regulations have been contravened by the board of directors, the credit committee or a member thereof or an officer or employee engaged by the board of directors, the supervisory committee shall forthwith advise the Director and the Ontario Share and Deposit Insurance Corporation in writing.

Audit

(2) The supervisory committee shall appoint an auditor or auditors or a league to assist it in determining whether any of the funds, securities or other property of the credit union have been misappropriated or misdirected and the remuneration of any auditor or league so appointed shall be paid by the credit union and determined by the supervisory committee.

Suspension

(3) In the event of a misappropriation or misdirection or a suspected misappropriation or misdirection as referred to in subsection 1, the supervisory committee may suspend any member of the board of directors or credit committee or any officer or employee without the holding of a general meeting and may appoint another person to perform the duties of the person so suspended, until a new member is duly elected or a new officer or employee appointed.

Meeting of members

(4) The supervisory committee shall forthwith give notice of a general meeting of the members to be held within fourteen days after the suspension under subsection 3.

(5) The supervisory committee shall report to the general meeting all the circumstances of any misappropriation or misdirection of funds, securities or other property and the reasons for any suspension, and the members of the credit union may, by resolution, dismiss from office any person so suspended, and, when the members of the credit union do not so vote to dismiss from office any person so suspended, that person shall be reinstated forthwith. Idem

57.—(1) The supervisory committee shall not meet less frequently than every three months, and, where no auditor has been appointed, shall meet at least every month, and shall at each such meeting examine the affairs of the credit union. Meetings

(2) The supervisory committee shall keep minutes of its meetings and shall, Report of minutes

(*a*) within seven days of each meeting report the results thereof in writing to the board of directors; and

(*b*) submit a written report to the annual meeting of the members of the credit union.

58.—(1) A credit union may, by by-law, provide for the appointment of an auditor or auditors in addition to or substitution for the supervisory committee and may delegate to such auditor or auditors such part of the duties of the supervisory committee as the by-law provides. Auditors

(2) The board of directors of the credit union may fix the remuneration of the auditor or auditors. Remuneration of auditors

(3) Where a credit union has passed a by-law under subsection 1 appointing an auditor or auditors to perform the duties of the supervisory committee, the by-law may further delegate the remaining powers and duties of the supervisory committee to the board of directors and so long as such by-law remains in force no supervisory committee shall be elected as required by section 54. Delegation of powers to board of directors

59.—(1) The members may, by resolution passed by two-thirds of the votes cast at a general meeting duly called for the purpose, remove a member of the supervisory committee before the expiration of his term of office, and shall by vote cast at that meeting elect another member in his stead for the remainder of his term. Removal of members

(2) The notice calling the meeting of members referred to in subsection 1 shall state that the purpose of the meeting Notice

is to remove the member of the supervisory committee who is named therein.

Right to make representations

(3) The member of the supervisory committee has the right to make such representations to the members regarding the resolution for his removal as he thinks fit, and may be represented by legal counsel or an agent.

OFFICERS

Officers

60.—(1) A credit union shall have a president and secretary and such other officers as are provided for by by-law.

Idem

(2) The board of directors shall elect the president from among themselves.

Remuneration of officers

(3) All payments to officers of a credit union for services rendered shall be approved by its board of directors.

Idem

(4) No officer or employee shall be paid or compensated on any basis that would relate such payment or compensation to the profits of the credit union or to an increase in the assets of the credit union.

Bond on certain officers and employees

61.—(1) Every officer or employee engaged by the board of directors of a credit union who receives or has charge of money shall, before assuming the duties of his office, furnish a bond for the due accounting of moneys received by him and the faithful performance of his duties with such sureties and in such form and amount as the board of directors may determine.

Minimum amount of bond

(2) The Lieutenant Governor in Council may make regulations prescribing the minimum amount of any bond to be provided under subsection 1.

AUDITORS AND FINANCIAL STATEMENTS

Appointment of auditors

62.—(1) The members of a credit union having combined paid-in capital and deposits of more than $500,000 and a credit union permitted to operate with negotiable orders shall,

(*a*) at their first general meeting appoint one or more auditors to hold office until the close of the first annual meeting and, if the members fail to do so, the board of directors shall forthwith make such appointment or appointments; and

(*b*) at each annual meeting appoint one or more auditors to hold office until the close of the next annual meeting and, if an appointment is not so made, the auditor in office continues in office until a successor is appointed.

Idem

(2) The members of any other credit union may appoint an auditor.

Casual vacancy

(3) The board of directors may fill any casual vacancy in the office of auditor, but, while such vacancy continues, the surviving or continuing auditor, if any, may act.

Removal of auditors

(4) The members may, by resolution passed by a majority of the votes cast at a general meeting duly called for the purpose, remove an auditor before the expiration of his term of office, and shall by a majority of the votes cast at that meeting appoint another auditor in his stead for the remainder of his term.

Notice to auditor

(5) Before calling a general meeting for the purpose specified in subsection 4, the credit union shall, fifteen days or more before the mailing of the notice of the meeting, give to the auditor,

(*a*) written notice of the intention to call the meeting, specifying therein the date on which the notice of the meeting is proposed to be mailed; and

(*b*) a copy of all material proposed to be sent to members in connection with the meeting.

Right to make representations

(6) The auditor has the right to make to the credit union three days or more before the mailing of the notice of the meeting, representations in writing concerning his proposed removal as auditor, and the credit union, at its expense, shall forward with the notice of the meeting a copy of such representations to each member entitled to receive notice of the meeting.

Appointment by the director

(7) If for any reason no auditor is appointed, under subsection 1, the Director may require that the board of directors appoint one or more auditors to hold office until the close of the next annual meeting and the board shall establish the remuneration to be paid by the credit union for his or their services.

Notice of appointment

(8) The credit union shall give notice in writing to an auditor of his appointment forthwith after the appointment is made.

Notice of intention

(9) A person, other than an incumbent auditor, may not be appointed auditor at an annual meeting unless notice of an intention to nominate that person to the office of auditor has been given by a member to the credit union not less than fifteen days before the mailing of the notice of the meeting at which the auditor is to be appointed, and, where such notice is given, the credit union shall send a copy of the notice to the incumbent auditor and to the person whom it is intended to nominate and shall give notice thereof to the members of the credit union.

Right to make representations

(10) The incumbent auditor has the right to make to the credit union, three days or more before the mailing of the notice of the meeting representations in writing concerning the proposal not to reappoint him as auditor, and the credit union, at its expense, shall forward with the notice of the meeting, a copy of such representations to each member entitled to receive notice of the meeting.

Persons disqualified as auditors

63.—(1) No person shall be appointed or act as the auditor of a credit union who is a director, officer, or employee of the credit union, or a member of the credit committee or supervisory committee thereof, or who is a partner, employer or employee of any such director, member, officer or employee, or who is a related person to any director or officer of the credit union or to a member of the credit committee or supervisory committee thereof.

Auditors not to be appointed receivers

(2) No person shall be appointed a receiver or a receiver and manager or liquidator of any credit union of which he or any partner or employer of or a related person to him is the auditor or has been the auditor within the two years preceding his appointment as receiver and manager or liquidator.

Trustee in bankruptcy not to be auditor
R.S.C. 1970, c. B-3

(3) No person who is appointed a trustee of the estate of a credit union under the *Bankruptcy Act* (Canada) or any partner or employer of or a related person to him shall be appointed or act as auditor of the credit union.

Annual audit

64.—(1) The auditor shall make such examination as will enable him to report to the members of the credit union as required by subsection 2.

Auditor's report

(2) The auditor shall make a report to the members of the credit union on the financial statement to be placed before the members at its annual meeting in accordance with section 71, and shall state in his report whether in his opinion the financial statement referred to therein presents fairly the financial position of the credit union and the results of its operations for the period under review in

accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period, if any.

Auditor's statement

(3) The auditor shall also report that his examination was made in accordance with generally accepted auditing standards and that accordingly it included such tests and other procedures as he considered necessary in the circumstances.

Qualified report

(4) When the report under subsection 2 does not contain the unqualified opinion required thereby, the auditor shall state in his report the reasons therefor.

Facts discovered after statement

(5) Where facts come to the attention of the officers or board of directors which, if known prior to the date of the last annual meeting of members, would have required a material adjustment to the financial statement presented to such meeting, the officers or board shall communicate such facts to the auditor who reported to the members under this section and the board shall forthwith amend the financial statement and send it to the auditor.

Amendment of auditor's report

(6) On the receipt of facts furnished under subsection 5 or from any other source, the auditor shall, if in his opinion it is necessary, amend his report in respect of the financial statement in accordance with subsection 4 and the board of directors or, if they fail to do so within a reasonable time, the auditor shall mail the amended report to the members.

Right of access

(7) The auditor of a credit union has right of access at all times to all records, documents, accounts and vouchers of the credit union and is entitled to require from the board of directors, officers, employees and members of the credit committee or the supervisory committee of the credit union such information and explanation as in his opinion are necessary to enable him to report as required by subsection 2.

Right to attend meetings

(8) The auditor of a credit union is entitled to attend any meeting of members of the credit union and to receive all notices and other communications relating to any such meeting that a member is entitled to receive, and to be heard at any such meeting that he attends on any part of the business of the meeting that concerns him as auditor.

Member's right to require auditor's attendance

(9) Any member of a credit union who is entitled to vote at meetings of members, may, by notice in writing to the credit union given five days or more before any meeting of

members, require the attendance of the auditor at such meeting at the credit union's expense, and in such event the auditor shall attend the meeting.

Auditor to answer inquiries

(10) At any meeting of members, the auditor, if present, shall answer inquiries directed to him concerning the basis upon which he formed the opinion stated in the report made under subsection 2.

OFFICERS—GENERAL

Standards of care

65. Every director, officer, member of a supervisory committee and member of a credit committee of a credit union shall exercise the powers and discharge the duties of his office honestly, in good faith and in the best interests of the credit union, and in connection therewith shall exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

Validity of acts of officers and directors

66. An act done by a director, member of the supervisory committee, member of the credit committee or officer of a credit union is not invalid by reason only of any defect that is thereafter discovered in his appointment, election or qualification.

Liability

67. The liability imposed by this Act upon a director, member of the credit committee, member of the supervisory committee, officer of a credit union or any person authorized to approve loans under section 51 is in addition to any other liability that is by law imposed upon him.

Indemnity

68.—(1) Subject to subsection 2, the by-laws of the credit union may provide that every director, credit committee member, supervisory committee member or officer may from time to time be indemnified and saved harmless by the credit union from and against,

(*a*) any liability and all costs, charges and expenses that he sustains or incurs in respect of any action, suit or proceeding that is proposed or commenced against him or in respect of anything done or permitted by him in respect of the execution of the duties of his office; and

(*b*) all other costs, charges and expenses that he sustains or incurs in respect of the affairs of the credit union.

Idem

(2) The credit union shall not indemnify any person under subsection 1 in respect of any liability, costs, charges or expenses that he sustains or incurs in or about any action,

suit or other proceeding as a result of which he is adjudged to be in breach of any duty or responsibility imposed upon him by this Act or any other statute unless, in an action brought against him in his capacity of director, credit committee member, supervisory committee member or officer, he has achieved complete or substantial success as a defendant.

Insurance

(3) A credit union may purchase and maintain insurance for the benefit of a director, credit committee member, supervisory committee member or officer thereof, except insurance against a liability, cost, charge or expense incurred as a result of a contravention of section 65.

Disclosure of interest in contracts

69.—(1) Every director, officer, credit committee member or supervisory committee member of a credit union who has, directly or indirectly, any interest in any contract or transaction to which the credit union is or is to be a party, including services rendered in a professional or business capacity, other than a contract limited solely to his remuneration for holding office, or who is, directly or indirectly, the beneficiary of any consideration or benefit as a result of any such contract or transaction to which the credit union is or is to be a party, shall declare his interest in such contract or transaction and the amount of any consideration or benefit of which he is the direct or indirect beneficiary at a meeting of the board of directors, credit committee or supervisory committee, as the case may be, and shall at that time disclose the nature and extent of such interest, to the extent to which such information is within his knowledge or control, and shall not vote and shall not in respect of such contract or transactions be counted in the quorum.

Time for disclosure

(2) The disclosure required by subsection 1 shall be made at the earliest possible meeting after the director, credit committee member or supervisory committee member becomes aware of the potential conflict of interest.

Effect of declaration

(3) If a director, officer, credit committee member or supervisory committee member has made a declaration and disclosure of his interest in a contract or a transaction in compliance with this section and has not voted in respect of the contract or transaction at the meeting at which it was considered and was acting honestly and in good faith at the time the contract or transaction was entered into, he is not by reason only of his holding office accountable to the credit union or to its members for any profit or gain realized from the contract or transaction, and the contract or transaction, if it was in the best interest of the credit union, is not voidable by reason only of his interest therein.

Confirmation by members

(4) Notwithstanding anything in this section, a director, officer, credit committee member or supervisory committee member, if he was acting honestly and in good faith, is not accountable to the credit union or to its members for any profit or gain realized from such contract or transaction by reason only of his holding office, and the contract or transaction, if it was in the best interest of the credit union at the time it was entered into is not by reason only of his interest therein voidable,

(*a*) if the contract or transaction is confirmed or approved by at least two-thirds of the votes cast at a general meeting of the members duly called for that purpose; and

(*b*) if the nature and extent of the interest in the contract or transaction are declared and disclosed in reasonable detail in the notice calling the meeting.

MEETINGS

Notice of meetings

70.—(1) Notice of the time and place for holding a meeting of the members of a credit union shall be given in accordance with the by-laws of the credit union, but in no event shall notice be given later than seven days before the date of the meeting or earlier than fifty days before the date of the meeting.

Idem

(2) Notice of any meeting at which directors are to be elected shall contain the information disclosed by a director under subsection 1 of section 69.

Idem

(3) Notice of a meeting shall be given to each member of a credit union who on the record date for notice appears on the records of the credit union as a member by,

(*a*) sending the notice by prepaid mail to his latest address as shown on the records of the credit union;

(*b*) delivering the notice to him at his place of employment; or

(*c*) publishing the notice in a newspaper which circulates in the community in which the head office of the credit union is located.

Chairman

(4) The president, or in his absence, a vice-president who is a director, shall preside as chairman at a meeting of members, but if there is no president or such a vice-president, or if at a meeting neither of them is present

within fifteen minutes after the time appointed for the holding of the meeting, the members present shall choose a person from among their number to be the chairman.

Annual meeting

71.—(1) The first and every successive meeting of a credit union shall be held at such time and place in Ontario as its by-laws provide, and, in default of provisions in that behalf, the annual meeting shall be held at its head office within 120 days of the year end of the credit union.

Business to be dealt with

(2) At such meeting, the board of directors shall place before the members,

(*a*) financial statements showing matters prescribed by the regulations relating separately to,

(i) the period that commenced on the date the credit union came into existence and ended not more than four months before the annual meeting or, if the credit union has completed a financial year, the period that began immediately after the end of the last completed financial year and ended not more than four months before the annual meeting, and

(ii) the period covered by the financial year next preceding such latest completed financial year, if any;

(*b*) the report of the supervisory committee, if any;

(*c*) the report of the auditor, if any; and

(*d*) such further information respecting the financial position of the credit union and the results of its operations as its by-laws require.

Report of supervisory committee

(3) The report of the supervisory committee, if any, to the members shall be read at the annual meeting and shall be open to inspection at the meeting by any member.

Report of auditor

(4) The report of the auditor, if any, to the members shall be read at the annual meeting and shall be open to inspection at the meeting by any member.

Approval of financial statement

(5) The board of directors of the credit union shall approve the financial statements referred to in clause *a* of subsection 2 and the approval shall be evidenced by the signature at the foot of the balance sheet of two duly authorized directors.

Distribution of financial statement

(6) The notice of the annual meeting of members shall be accompanied by a copy of the financial statements referred to in clause *a* of subsection 2 and a copy of the auditor's report, if any, or shall specify that copies of the above will be available at the meeting and copies of the above shall also be filed with the Director at least seven days before the date of the meeting.

General meetings

72. The board of directors may at any time call a general meeting of the members for the transaction of any business, the general nature of which is specified in the notice calling the meeting.

Requisition for members' meeting

73.—(1) 5 per cent of the members of a credit union may requisition the board of directors to call a general meeting of the members for any purpose that is connected with the affairs of the credit union and that is not inconsistent with this Act.

Requisition

(2) The requisition shall state the general nature of the business to be presented at the meeting and shall be signed by the requisitionists and deposited at the head office of the credit union and may consist of several documents in like form, each signed by one or more requisitionists.

Duty of directors to call meeting

(3) Upon deposit of the requisition, the board of directors shall forthwith call a general meeting of the members for the transaction of the business stated in the requisition.

When requisitionists may call meeting

(4) If the board of directors do not within twenty-one days from the date of the deposit of the requisition call the meeting, any of the requisitionists may call the meeting, which shall be held within sixty days from the date of the deposit of the requisition.

Calling of meeting

(5) A meeting called under this section shall be called as nearly as possible in the same manner as meetings of members are called under the by-laws, but, if the by-laws provide for more than twenty-one days notice of meetings, twenty-one days notice is sufficient for the calling of the meeting.

Repayment of expenses

(6) The credit union shall,

(*a*) reimburse all or any of the requisitionists for any reasonable expenses incurred by them by reason of the action taken by them under subsection 4; and

(*b*) retain out of any moneys due or to become due, by way of fees or other remuneration for their services, to such of the board of directors as were in default, an amount equal to the amount the requisitionists

were reimbursed, unless, at the meeting, the members by a majority of the votes cast reject the reimbursement of the requisitionists.

Annual statement to be given to members

74. Every credit union shall without charge supply to every member upon application therefor or as provided by its by-laws, a copy of its last comparative financial statement.

Inspection of books

75.—(1) Except as provided in this Act, no member or other person has any right to inspect the books of a credit union.

Idem

(2) Any member or other person having an interest in the funds of a credit union may inspect his own account and the books containing the names of the members at all reasonable hours at its head office or at whatever other place they are kept, subject to such conditions as to time and manner of inspection as the by-laws may prescribe.

As to loan or deposit accounts of members

(3) A credit union may by by-law authorize the inspection of any of its books therein mentioned, in addition to the books containing the names of members, under such conditions as are thereby prescribed, and no person, unless he is an officer of the credit union or is specifically authorized by a resolution thereof, has the right to inspect the loan or deposit account of any other member without such other member's written consent.

Branch meetings

76.—(1) A credit union may establish a branch or branches subject to such terms and conditions as are prescribed by the regulations and the branch may, by by-law, provide for the holding of meetings of the members who belong thereto.

Delegates

(2) Where a by-law under subsection 1 is in force, the members of a branch shall elect delegates, by special resolution, to represent the members at the annual or general meeting of the credit union, and the delegates so elected shall exercise the powers of the members of the branch at all meetings of the credit union and the members represented by such delegates are not entitled to vote at the meeting of the credit union.

Number and votes

(3) The number of delegates and votes allowed each branch at the meeting of the credit union shall be specified by the by-laws of the credit union, as well as the time, place and manner of calling a branch meeting, the number of members of the branch that constitute a quorum and the procedure to be followed in the conduct of the branch meeting.

Majority

(4) The required majority vote for deciding each issue to be voted on at the branch meeting shall be the same as that required for deciding such issues at meetings of the entire membership of the credit union as specified in this Act, the regulations and the by-laws of the credit union.

DIVIDENDS

Dividends

77. Subject to the by-laws, the board of directors may declare, and the credit union may pay, a dividend on the amounts paid in on shares held by members at any time during the fiscal year and may, at their discretion, declare rebates of interest paid by members in respect of loans during that fiscal year.

When dividend not to be declared

78.—(1) The board of directors shall not declare and the credit union shall not pay any dividend when the credit union is insolvent, or any dividend the payment of which renders the credit union insolvent or that diminishes its capital.

Directors' joint and several liability

(2) The directors who vote in favour of or consent to the resolution authorizing the declaration of a dividend are jointly and severally liable to the credit union to the extent of the amount of the dividend so declared and paid or such part thereof as renders the credit union insolvent or diminishes its capital.

Exoneration

(3) If any director present at the meeting at which such dividend is declared, forthwith, or if any director then absent, within twenty-four hours after he becomes aware of the dividend and is able to do so, delivers or sends to the credit union by registered mail his protest against the dividend, and within eight days thereafter, sends a copy thereof to the Director, the director thereby and not otherwise exonerates himself from liability.

INVESTMENTS

Investments

79.—(1) A credit union may lend or invest its funds in,

government securities

(*a*) the bonds, debentures, stocks or other evidences of indebtedness issued or guaranteed by the government of Canada, or of a province or territory of Canada;

municipal securities

(*b*) the bonds, debentures or other evidences of indebtedness issued or guaranteed by a municipal corporation in Canada, or by a school or religious corporation in Canada, or secured by rates or taxes levied under the authority of the government of a province of Canada on property situate in such

province and collectable by the municipalities in which such property is situate;

(*c*) the bonds, debentures or other evidences of indebtedness issued by an authority or other body established and empowered pursuant to the law of Canada or any province thereof to administer, regulate the administration of, provide or operate port, harbour, airport, bridge, highway tunnel, transportation, communication, sanitation, water, electricity or gas services or facilities and, for any of these purposes, to levy, impose or fix taxes, rates, fees or other charges; revenue bonds

(*d*) the bonds, debentures or other evidences of indebtedness issued by a corporation that are fully secured by a mortgage, charge or hypothec to a trustee, or to the credit union upon any, or upon any combination, of the following assets, bonds, etc., secured by mortgage

(i) improved real estate or leasehold,

(ii) the plant or equipment of a corporation that is used in the transaction of its business, or

(iii) bonds, debentures or other evidences of indebtedness or shares, of a class authorized by this subsection, as investments, or cash balances, if such bonds, debentures or other evidences of indebtedness, shares or cash balances are held by a trustee,

and the inclusion, as additional security under the mortgage, charge or hypothec, of any other assets not of a class authorized by this Act as investments shall not render such bonds, debentures or other evidences of indebtedness ineligible as an investment;

(*e*) obligations or certificates issued by a trustee to finance the purchase of transportation equipment for a corporation incorporated in Canada to be used on railways or public highways, if the obligations or certificates are fully secured by, equipment trust certificates

(i) an assignment of the transportation equipment to, or the ownership thereof by, the trustee, and

(ii) a lease or conditional sale thereof by the trustee to the corporation;

debentures

(*f*) the bonds, debentures or other evidences of indebtedness issued or guaranteed by,

(i) a corporation if, at the date of investment, the preferred shares or the common shares of the corporation are authorized as investments by clause *h* or *i*,

(ii) a corporation, if its earnings in a period of five years ended less than one year before the date of investment have been equal in sum total to at least ten times and in each of any four of the five years have been equal to at least one and one-half times the annual interest requirements at the date of investment on all indebtedness of or guaranteed by it, other than indebtedness classified as a current liability in its balance sheet, and, if the corporation at the date of investment owns directly or indirectly more than 50 per cent of the common shares of another corporation, the earnings of the corporations during the said period of five years may be consolidated with due allowance for minority interests, if any, and in that event the interest requirements of the corporation shall be consolidated and such consolidated earnings and consolidated interest requirements shall be taken as the earnings and interest requirements of the corporation, and, for the purpose of this subclause, "earnings" means earnings available to meet interest charges on indebtedness other than indebtedness classified as a current liability;

guaranteed investment certificates

(*g*) guaranteed investment certificates issued by a trust company incorporated in Canada if, at the date of investment, the preferred shares or the common shares of the trust company are authorized as investments by clause *h* or *i*;

preferred shares

(*h*) the preferred shares of a corporation if,

(i) the corporation has paid a dividend in each of the five years immediately preceding the date of investment at least equal to the specified annual rate upon all of its preferred shares, or

(ii) the common shares of the corporation are, at the date of investment, authorized as investments by clause *i*;

(*i*) the fully paid common shares of a corporation that during a period of five years that ended less than one year before the date of investment has either, common shares

(i) paid a dividend in each such year upon its common shares, or

(ii) had earnings in each such year available for the payment of a dividend upon its common shares,

of at least 4 per cent of the average value at which the shares were carried in the capital stock account of the corporation during the year in which the dividend was paid or in which the corporation had earnings available for the payment of dividends, as the case may be;

(*j*) ground rents, mortgages, charges or hypothecs on real estate or leaseholds in Ontario, but the amount paid for the mortgage, charge or hypothec together with the amount of indebtedness under any mortgage, charge or hypothec on the real estate or leasehold ranking equally with or prior to the mortgage, charge or hypothec in which the investment is made shall not exceed three-quarters of the value of the real estate or leasehold covered thereby; Mortgages, etc.

(*k*) mortgages or charges on improved real estate or leaseholds in Ontario notwithstanding that the mortgage or charge exceeds the amount that the credit union is otherwise authorized to invest if the excess is insured or guaranteed by the government of Canada or Ontario or by an agency of the government of Canada or Ontario or by a policy of mortgage insurance issued by an insurance company licensed under *The Insurance Act* for such class of insurance; guaranteed mortgages R.S.O. 1970, c. 224

(*l*) real estate or leaseholds for the production of income in Canada either alone or jointly with any other credit union or with any loan corporation or trust company incorporated in Canada, if, real estate or leaseholds for the production of income

(i) a lease of the real estate or leasehold is made to, or guaranteed by,

(A) the Government of Canada and its territories or of a province, or municipality thereof, or

(B) a corporation, the preferred shares or common shares of which are, at the

date of investment, authorized as investments by clause *h* or *i*,

(ii) the lease provides for a net revenue sufficient to yield a reasonable interest return during the period of the lease and to repay at least 85 per cent of the amount invested in the real estate or leasehold within the period of the lease but not exceeding thirty years from the date of investment, and

(iii) the total investment of a credit union in any one parcel of real estate or in any one leasehold does not exceed 2 per cent of the book value of the total assets of the credit union,

and the credit union may hold, maintain, improve, lease, sell or otherwise deal with or dispose of the real estate or leasehold;

other real estate or leaseholds for the production of income

(*m*) real estate or leaseholds for the production of income in Canada either alone or jointly with any other credit union or with any loan corporation or trust company incorporated in Canada, if,

(i) the real estate or leasehold has produced, in each of the three years immediately preceding the date of investment, net revenue in an amount that, if continued in future years, would be sufficient to yield a reasonable interest return on the amount invested in the real estate or leasehold and to repay at least 85 per cent of that amount within the remaining economic lifetime of the improvements to the real estate or leasehold but not exceeding forty years from the date of investment, and

(ii) the total investment of a credit union in any one parcel of real estate or in any one leasehold does not exceed 2 per cent of the book value of the total assets of the credit union,

and the credit union may hold, maintain, improve, lease, sell or otherwise deal with or dispose of the real estate or dispose of the real estate or leasehold;

mutual funds

(*n*) in the fully paid shares or units of any mutual fund or corporation incorporated to offer public participation in an investment portfolio subject to such terms and conditions as may be prescribed by the Lieutenant Governor in Council.

(2) Notwithstanding clauses *k*, *l* and *m* of subsection 1, a credit union may invest to an aggregate amount not exceeding 5 per cent of its unimpaired capital, deposits and reserves, in any other classes or types of investments, including mortgages or charges, the purchase of land, the improvement thereof, the construction of buildings thereon, and the management and disposal of such lands and buildings. Idem

80. The following restrictions, limitations and prohibitions apply to credit unions in the exercise of their investment policies under this Act, Investment restrictions

(*a*) a credit union shall not invest any of its funds in bonds, debentures or other evidences of indebtedness on which the payment of principal or interest is in default;

(*b*) a credit union shall not act as an underwriter in connection with the purchase or sale of any securities or other property of any kind;

(*c*) except as to securities issued or guaranteed by the Government of Canada or the government of a province of Canada, a credit union shall not invest in any one security or make a total investment in any one corporation that is not a credit union or a league, either by the purchase of shares or other securities of such corporation or by lending to it on the security of its debentures or other assets or any part thereof, of more than 10 per cent of the book value of the total assets of the credit union;

(*d*) a credit union shall not make any investment the effect of which will be that it will hold more than 30 per cent of the common shares or 30 per cent of the total issued shares of any one corporation;

(*e*) the total book value of the investments of a credit union in common shares shall not exceed 5 per cent of the book value of the total assets of the credit union;

(*f*) the total book value of the investments of a credit union in real estate or leaseholds for the production of income shall not exceed 10 per cent of the book value of the total assets of the credit union;

(*g*) a credit union shall not make any investment in or loan to another credit union an amount in excess of 1 per cent of its unimpaired capital, deposits and surplus without the written approval of the Director; and

(*h*) a credit union shall not invest in the shares of a corporation that is a member of the credit union.

Loans and deposits

81.—(1) Subject to paragraphs 3 and 4 of subsection 2 of section 11, no credit union shall advance money by discount, loan or otherwise to, or accept deposits from, persons other than its members.

Limitation on interest

(2) Interest, together with all the costs of borrowing including bonuses, premiums and penalties shall not exceed such amount as is prescribed by the regulations.

Loans to officers

(3) No credit union shall lend to an officer or member of a committee or of the board of directors of the credit union an amount in excess of the aggregate of fully paid up shares and deposits of such member unless such loan is approved by the credit committee, the board of directors, and the supervisory committee.

Limitations on loans to members

(4) No credit union shall lend to a member an amount that is in excess of 10 per cent of the aggregate of its capital, members' deposits and surplus, or such lesser percentage as may be prescribed in the by-laws of the credit union.

Limitations on loans to unincorporated members

(5) No credit union shall lend to a member who is an unincorporated association unless such loan is approved by the credit committee, the supervisory committee and the board of directors.

Loans to corporate and partnership members

82.—(1) A credit union may make loans to corporations and partnerships who are members of the credit union in an aggregate not exceeding the greater of,

(*a*) 7 per cent of the credit union's unimpaired capital, deposits and surplus; or

(*b*) such percentage as the Director may approve, not in excess of 15 per cent of the unimpaired capital deposits and surplus of the credit union;

and such loans must be fully secured in the manner provided by the regulations.

Loans to unincorporated members

(2) A credit union may make secured loans to unincorporated associations who are members in aggregate not exceeding 1 per cent of the credit union's unimpaired share capital.

Loans to individuals

(3) A credit union may make loans to members who are individuals on such terms as are provided for in the by-laws.

83. A credit union may make loans to its members by way of mortgage, charge or hypothecation on a term not exceeding five years, subject to renegotiation, and, Mortgage loans to members

(*a*) The maximum amount that may be loaned by way of mortgage, subject to any limitation in the by-laws of the credit union, shall not exceed,

(i) three-quarters of the value of the real estate to which the mortgage or charge relates unless the excess over three-quarters of the value of the real estate to which the mortgage or charge relates is insured or guaranteed by the government of Canada, or Ontario or by an agency thereof, or by a policy of mortgage insurance issued by an insurance company licensed under *The Insurance Act* for such class of insurance, R.S.O. 1970, c. 224

(ii) in the case of a second mortgage, the balance owing on the first mortgage shall be taken into account in meeting the requirements referred to in subclause i; and

(*b*) the mortgage shall contain a definitive provision for repayment which will result in the principal and interest being fully repaid within twenty-five years or such longer period of time as the regulations may prescribe,

but if the credit union becomes an approved lender for the purpose of making loans under the *National Housing Act*, the provisions of that Act apply to mortgage loans undertaken by the credit union under that Act. R.S.C. 1970, c. N-10

84. A credit union may make guaranteed loans under and in accordance with the provisions of the *Canada Student Loans Act* (Canada), the *Farm Improvement Loans Act* (Canada) or the *Fisheries Improvement Loans Act* (Canada) and such other Act as may be designated by the regulations. Student loans R.S.C. 1970, cc. S-17, F-3, F-22

85.—(1) The credit committee may approve an extension of credit for a member by way of contract loans and advances may be made to such member from time to time within the limits of the approved extension of credit. Loans and advances

(2) The credit committee shall review all extensions of credit and an extension of credit expires if the member becomes more than ninety days in default of any repayment. Review

Contract loans

(3) An extension of credit by way of contract loan is a loan within the meaning of this Act.

Directors, etc., not to guarantee loans

86. No director, member of a credit committee, member of a supervisory committee or credit union officer or employee shall cosign, endorse, or act as a guarantor for any borrower from the credit union unless such loan was made to a related person and approved in the manner provided in section 81.

Postponement or renegotiation of loans

87. The credit committee of a credit union may in its discretion,

(*a*) upon receipt of a written request from a borrower or his cosigner, postpone the due date for the repayment of any one or more instalments of the principal of the loan or any part of an instalment or postpone the due date for the payment of any one or more payments of interest on the loan or any part of a payment, or both, and fix due dates accordingly;

(*b*) upon being satisfied that a loan is reasonably secure, authorize the release or substitution of any security or securities, in whole or in part, taken to secure a loan from the credit union to a member; and

(*c*) renegotiate a loan from the credit union to a member upon new terms in the event the circumstances of the borrower have changed.

Disposal of authorized investments

88.—(1) The Director may order a credit union to dispose of and realize any of its investments not made or held in accordance with this Act, the regulations or the by-laws and the credit union shall within sixty days after receiving the order absolutely dispose of and realize such investments, and, if the amount realized therefrom falls below the amount paid by the credit union for the investments, the board of directors of the credit union are jointly and severally liable for the payment to the credit union of any deficiency.

Exoneration

(2) If any director present at the meeting at which an investment to which subsection 1 applies is authorized, forthwith, or if any director then absent, within fourteen days after he becomes aware of the investment and is able to do so, delivers or sends to the credit union by registered mail his protest against the investment, and within thirty days thereafter, sends a copy thereof by registered mail to the Director, the director thereby and not otherwise exonerates himself from liability.

89.—(1) The Director may order a credit union to call any loan it has made not authorized by this Act, the regulations or the by-laws and the credit union shall within sixty days after receiving the direction call the loan, if possible, and, if within that time the full amount of the loan is not repaid, the members of the credit committee, the person or persons appointed under section 50 and the person or persons authorized under section 51 are jointly and severally liable for the payment to the credit union of any deficiency upon the maturity of the loan. Call of unauthorized loans

(2) If any member of the credit committee present at the meeting at which such loan is authorized, forthwith, or if any credit committee member then absent, within fourteen days after he becomes aware of the loan and is able to do so, delivers or sends to the credit union by registered mail his protest against the loan, and, within thirty days thereafter, sends a copy thereof by registered mail to the Director, the credit committee member thereby and not otherwise exonerates himself from liability. Exoneration

90. A credit union may accept money on deposit at a specified rate of interest for a term not longer than five years. Term deposits

91.—(1) Where the combined share capital and the deposits of a credit union exceed $100,000 and it has appointed an auditor in accordance with this Act and it has an accounting system satisfactory to the Director and its board of directors has so authorized, it may, so long only as the Director approves in writing, permit its members to use negotiable orders for the withdrawal of moneys on deposit. Negotiable orders

(2) The Director may at any time revoke any approval given under subsection 1. Revocation of approval

(3) No officer or employee of a credit union shall permit any withdrawal of moneys from the deposit or share account of a member unless the amount in such deposit or share account is equal to or in excess of the amount sought to be withdrawn, and any officer or employee who contravenes this subsection is guilty of an offence under this Act. Withdrawal of money

(4) Nothing in this section curtails, abridges, defeats or otherwise affects any remedy for the recovery from a member Remedies not affected

of any amount withdrawn in excess of the amount standing to his credit in his deposit or share account.

Reserve for deposits

92.—(1) Each credit union shall at all times maintain to an aggregate of at least 10 per cent of the amount of deposits, shares and borrowings of the credit union,

(*a*) cash, including deposits with a chartered bank in Canada, a loan or trust company registered under *The Loan and Trust Corporations Act*, the Province of Ontario Savings Office or a league, providing that such deposits are callable within ninety days;

R.S.O. 1970, c. 254

(*b*) unencumbered bonds, debentures or other obligations of or guaranteed by the Government of Canada or by the government of any province or shares of a league, valued at market value;

(*c*) in the case of a credit union that is in regular receipt of deductions made from the payroll of any of its members, an amount equal to any such deductions which have been made and are in the course of being remitted; and

(*d*) the asset referred to in subsection 7 of section 111 valued in accordance with that subsection.

Idem

(2) Where the Director has given approval to a credit union under subsection 1 of section 91, the credit union shall maintain in the manner specified in subsection 1 an additional reserve equal to 10 per cent of the aggregate amount on deposit with the credit union that is withdrawable by negotiable order.

Idem

(3) Of the amount required to be maintained under subsection 1, at least 10 per cent shall be maintained in cash as provided in clause *a* of subsection 1.

Loans where reserves deficient

(4) No credit union shall make any loan or investment other than an investment authorized by clause *b* of subsection 1 until it has satisfied the requirements of subsection 1.

Regulations re reserves

93. The Lieutenant Governor in Council may make regulations prescribing further percentages of the reserves or classes of deposits or investments required to be maintained under section 92.

94.—(1) Every credit union in computing its annual net income or loss shall make full provision for, Provision for losses and accrued interest

(*a*) all doubtful loans, other doubtful receivables, and losses on investments; and

(*b*) all interest accruing on deposits.

(2) A credit union may by special resolution establish a reserve and may transfer to the reserve from undivided earnings or transfer from the reserve to undivided earnings such amounts as the board of directors may by resolution direct. Establishment of reserve

ONTARIO SHARE AND DEPOSIT INSURANCE CORPORATION

95. In sections 96 to 118, "Corporation" means the Ontario Share and Deposit Insurance Corporation. Interpretation

96.—(1) There is hereby established a corporation without share capital to be known in English as the Ontario Share and Deposit Insurance Corporation and in French as La Société Ontarienne D'Assurance des Actions et Depôts. Corporation established

(2) *The Corporations Act* does not apply to the Corporation. Application of R.S.O. 1970, c. 89

(3) The members of the Corporation shall be all credit unions incorporated in Ontario. Corporation members

97.—(1) The board of directors of the Corporation shall be appointed by the Lieutenant Governor in Council and shall consist of, Board of directors

(*a*) three persons nominated by a league that has more than fifty members and that is approved by the Lieutenant Governor in Council for the purpose of this section;

(*b*) one person nominated by a league that has fewer than fifty members and that is approved by the

Lieutenant Governor in Council for the purpose of this section; and

(*c*) three persons to represent the public and the credit unions who are not members of a league.

Chairman

(2) The board of directors shall elect or appoint from among themselves a chairman.

Functions

98.—(1) The affairs of the Corporation shall be administered by the board of directors.

Chairman to preside

(2) The chairman shall preside at all meetings of the Corporation but, where at any meeting the chairman is absent, one of the directors present thereat who is chosen so to act by the directors present shall preside and has and shall exercise the powers of the chairman.

Secretary and treasurer

(3) The board of directors may appoint a secretary and a treasurer.

Quorum

(4) A majority of the members of the board of directors constitutes a quorum.

Travelling expenses

(5) A member of the board of directors shall be paid by the Corporation out of its income all reasonable travelling and living expenses incurred by him while absent from his ordinary place of residence in the course of his duties as a director and, in addition, may be paid out of income as remuneration for his services and duties such daily or other amount as may be fixed by the board and reported to its members in its annual report.

Annual report

99.—(1) The Corporation shall within four months after the termination of each financial year transmit to its members, the Minister and the Superintendent, an annual report relating to its activities in that year including financial statements of the Corporation in the form required by section 71 and the auditor's report thereon, which shall be in accordance with sections 63 and 64.

Annual examination of the Superintendent

(2) The Superintendent shall be deemed to have an interest in the Corporation as representative of all persons who may be claimants against credit unions, and the board of directors, officers and employees of the Corporation shall from time to time furnish the Superintendent with such information and financial statements with respect to the

Corporation as the Superintendent may require, and the Superintendent shall make an annual examination and report to the Minister and the Minister shall then lay the annual report of the Corporation and report of the Superintendent before the Assembly if it is in session or, if not, at the next ensuing session.

Term of office

100. The members of the board of directors shall hold office for a term of three years commencing on the date on which they were appointed and thereafter until their successors are appointed and any casual vacancy occurring shall be filled in accordance with section 97 for the balance of the term of the director whose office became vacant.

Objects

101. The objects of the Corporation are,

(*a*) to accumulate, manage, invest, disburse and pay out a separate fund for each league and a further fund for all independent members, such funds to be accounted for separately and each fund receiving the revenues or assets and bearing all direct charges and an appropriate portion of such other charges as may be applicable to it;

(*b*) to provide, in its discretion, financial assistance, having regard to the liabilities and assets of each fund, for the purpose of assisting any credit union in the appropriate category in its continued operation or in the orderly liquidation of its operations;

(*c*) to provide, for the benefit of persons having shares or deposits with credit unions in Ontario deposit insurance against loss of part or all of such shares or deposits, by making payments to such persons to the extent and in the manner authorized by this Act.

Ancillary powers

102. The Corporation may do all things necessary or incidental to its objects and in particular, but without limiting the generality of the foregoing, the Corporation may, in furtherance of its objects,

(*a*) acquire assets from credit unions, make loans or advances to credit unions and take security therefor and guarantee loans to or deposits with credit unions;

(*b*) require the payment of levies by credit unions for the purpose of establishing and maintaining the assets of the corporation;

(*c*) assume the costs of winding up of credit unions;

(*d*) acquire assets of credit unions from a liquidator or receiver thereof;

(*e*) make an advance or grant for the purpose of paying lawful claims against credit unions in respect of any claims of their members for withdrawal of deposits or share capital and become subrogated as an unsecured creditor for the amount of such advance;

(*f*) borrow money on the credit of the Corporation or on bills of exchange or promissory notes drawn, made, accepted or endorsed by or on behalf of the Corporation and may pledge as security all or any part of the assets of the funds;

(*g*) make or cause to be made such inspections or examinations of credit unions as may be authorized under this Act;

(*h*) declare and pay dividends to its members; and

(*i*) do all such other things, not contrary to this Act, as may be necessary for the exercising of any of the powers of the Corporation.

Powers and duties of Corporation

103. The board of directors shall administer the affairs of the Corporation in all things and make, or cause to be made, for the Corporation any description of contract that the Corporation may by law enter into, and, subject to the approval of the Lieutenant Governor in Council, the Corporation may make by-laws for,

(*a*) the administration, management and control of the property and affairs of the Corporation;

(*b*) the functions, duties and remuneration of all officers, agents and employees of the Corporation;

(*c*) the appointment or disposition of any special committees from time to time created by the Corporation;

(*d*) the appointment of an auditor;

(*e*) determining the seal of the Corporation;

(*f*) the time and place for the holding of meetings of the board of directors and the procedure in all things at such meetings;

(*g*) prescribing standards of sound business and financial practices for credit unions;

(*h*) prescribing the manner in which a credit union may represent that it is a contributor to the Corporation;

(*i*) defining the expression "deposit" for the purpose of deposit insurance;

(*j*) authorizing and controlling the use by credit unions of marks, signs, advertisements or other devices indicating that deposits with credit unions are insured by the Corporation;

(*k*) the conduct in all other particulars of the affairs of the Corporation.

Powers of investigation

104. For the purposes of carrying out any investigation or inquiry authorized by this Act, the Corporation may appoint any person in writing to carry out the investigation or inquiry and the person so appointed shall be given free access to the books, records and documents of the credit union and has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to the investigation or inquiry as if it were an inquiry under that Act.

1971, c. 49

Prohibition as to holding out insured

105.—(1) No person, other than a credit union who is a member of the Corporation, shall by any written or oral representations of any kind advertise or hold out any corporation, society or association as being insured or approved for deposit insurance by the Corporation and a person who contravenes this subsection is guilty of an offence.

Advertising

(2) No credit union shall advertise or hold out by any written or oral representation that it is insured by the Corporation otherwise than by such marks, signs, advertisements or other devices as are authorized by the by-laws of the Corporation and used in the manner and on the occasions prescribed by the by-laws and a credit union who contravenes this subsection is guilty of an offence.

Fiscal year

106. The fiscal year end of the Corporation ends on the 31st day of December in each year.

Investment of funds

107.—(1) The Corporation may, in its discretion, invest any funds not required in carrying out its objectives in the classes of securities in which a credit union may invest its

funds under section 79 and subject to the restrictions, limitations and prohibitions contained in section 80.

Idem

(2) Notwithstanding subsection 1, the Corporation shall at all times maintain more than 50 per cent of the book value of its total assets invested in,

(*a*) unencumbered debentures, bonds, stocks or other securities of or guaranteed by the Government of Canada or of or guaranteed by any province of Canada;

(*b*) the bonds, debentures or other evidences of indebtedness issued or guaranteed by a municipal corporation in Canada;

(*c*) guaranteed investment certificates issued by a trust company incorporated in Canada if, at the date of investment, the preferred or common shares of the trust company are authorized as investments under section 79;

(*d*) cash on hand or on deposit in a chartered bank or a loan or trust company registered under *The Loan and Trust Corporations Act* or a league, or the Canadian Co-operative Credit Society or other institution that is prescribed by regulation,

R.S.O. 1970, c. 254

except that not more than 20 per cent of the book value of its total assets shall at any one time be invested in any one of investments referred to in clauses *a*, *b* and *c*.

Duty to insure

108.—(1) The Corporation shall insure each deposit with a credit union, except so much of any one deposit as exceeds $20,000.

How payable

(2) Where the Corporation is obliged to make payment in respect of any deposit insured by deposit insurance, the Corporation, as soon as possible after the obligation arises, shall, in respect of such deposit, make payment to such person as appears entitled thereto by the records of the credit union with whom the deposit was made, by paying such person an amount in money equal to so much of his money as is insured by the Corporation.

Discharge of liability

(3) Payment under this section by the Corporation in respect of any deposit insured by deposit insurance discharges the Corporation from all liability in respect of that deposit and in no case is the Corporation under any obligation to see to the proper application in any way of the payment so made.

(4) Where the Corporation makes a payment under this section in respect of any deposit with a credit union, the Corporation is subrogated to the extent of the payment made to all the rights and interest of the depositor as against that credit union. Subrogation

109.—(1) No credit union that is carrying on business in Ontario shall accept deposits or moneys on account of shares after the coming into force of this section unless it is insured by the Corporation from and after that day in accordance with this Act and the by-laws of the Corporation. Insuring credit unions

(2) Where a credit union commences business in Ontario after the day on which this section comes into force, the deposits with the credit union shall be insured by the Corporation in accordance with this Act and the by-laws of the Corporation from and after the day the credit union commences business. Idem

(3) Where a credit union becomes insured with the Corporation, the Corporation shall issue to the credit union a certificate of deposit insurance in the form prescribed by the regulations. Certificate

110.—(1) The deposit insurance of a credit union may be cancelled on not less than thirty days notice to the credit union by the Corporation when, Cancellation of deposit insurance

(*a*) the credit union is in breach of the standards of business and financial practices prescribed by the Corporation or any of conditions of a policy of deposit insurance issued to it;

(*b*) the credit union ceases to accept deposits or issue shares; or

(*c*) an order has been made under section 116 for the Corporation to take possession of the credit union.

(2) When the deposit insurance of a credit union is cancelled by the Corporation, the deposits with the credit union on the day the cancellation takes effect, less any withdrawals from such deposits, continue to be insured for a period of two years or, in the case of a term deposit with a remaining term exceeding two years, to the maturity thereof. Effect of cancellation

(3) Where the deposit insurance of a credit union has been cancelled, the credit union shall notify its depositors of that fact and shall cease to accept deposits from the date of cancellation forward. Notification to depositors

Public notice

(4) The Corporation may, in such manner as it considers expedient, give public notice of the cancellation of deposit insurance of a credit union if, in the opinion of the Corporation, the public interest requires that such notice be given.

Assessment from league

111.—(1) The Corporation shall assess and collect during its first year of operation from each league an amount equal to 1 per cent of the aggregate total share capital and deposits of each credit union that is a member of the league at the end of the fiscal year of the league immediately preceding the assessment and the league is entitled to recover an appropriate amount from each of its members.

Assessment from credit unions outside league

(2) The Corporation shall assess and collect during its first year of operation from every credit union that is not a member of a league an amount equal to 1 per cent of the total share capital and deposits of the credit union at the end of the fiscal year of the credit union immediately preceding the assessment.

Annual assessment

(3) The Corporation shall in each year thereafter assess and collect from, or refund to, each league and every credit union that is not a member of a league, in each year an amount equal to 1 per cent of the increase or decrease in the total share capital and deposits of the credit union.

Extra-ordinary assessment

(4) In addition to amounts collected under subsection 3, the Corporation may assess and collect from every credit union, directly or through a league, such further amount, based on the total amount of the shares and deposits of the credit union as at the end of the fiscal year immediately preceding the assessment, as the Corporation considers necessary to replace any advances or payments made by the Corporation in the exercise of its powers under this Act.

Idem

(5) For the purposes of the assessment referred to in subsection 4, the Corporation shall maintain separate funds for each league and a further fund to encompass the activities of all credit unions that do not belong to a league and each such assessment shall be fixed by the Corporation having regard to the financial position of each fund.

Assessment of debt

(6) All amounts assessed by the Corporation against a credit union or league for the purposes of this Act shall be deemed to be a debt owing to the Corporation and the amount thereof, together with any interest levied by the Corporation as an overdue charge is recoverable by action in any court of competent jurisdiction.

(7) A credit union shall charge any assessment levied under subsection 4 as an expense, but, notwithstanding subsection 6, a credit union may treat any other assessment levied under this section as an asset, the value whereof shall be adjusted from time to time in accordance with the financial position of the appropriate fund accumulated by the Corporation. Assessment to be treated as an expense

(8) Where in any year its earnings have exceeded its expenses, the Corporation may in its discretion declare a dividend to all credit unions participating in that fund of an amount not more than such excess. Dividends

(9) On the dissolution of a credit union, the Corporation shall repay to it an amount equal to its assessments paid under subsection 1, 2 or 3, adjusted in accordance with the financial position of the appropriate fund, and for this purpose the Corporation's evaluation of the financial position of the fund shall be conclusive. Replacement on dissolution

112. Notwithstanding anything in this Act, the Corporation may remit or defer the collection of any assessment made by the Corporation and upon such terms and conditions as it may direct. Repayments

113.—(1) The Corporation shall maintain an account for each fund to be known as the accumulated net earnings to which shall be credited all earnings including realized profits on the sale of securities and to which shall be charged all expenses including operating and administrative expenses, costs of examinations and inspections of credit unions, losses and specific provisions for losses and losses on sales of securities. Accumulated net earnings

(2) The accumulated net earnings for each fund shall be reported as a separate item in any statement of assets and liabilities of the Corporation and shown as an addition to or a deduction from each fund. Separate item in report

(3) Upon any credit union changing its status with respect to membership in any league, its contribution to the appropriate fund shall be transferred and the liabilities of the respective funds shall be adjusted accordingly, subject to the approval of the Superintendent after such audit of the credit union's affairs as seems necessary to the Superintendent. Adjustment of funds

114.—(1) For the purposes of the Corporation, the affairs of each credit union shall be examined by a person provided for under this section at least once in each year, and a copy Annual examination of credit unions

of such examination shall be forthwith transmitted by the examiner to the Corporation and the Director.

Idem

(2) The annual examination shall be made,

(*a*) where the credit union is a member of a league, by the league;

(*b*) where the credit union is not a member of a league, by the Director,

and the cost shall be borne by the Corporation, except that the Corporation may, in place of an examination made under clause *a* or *b*, accept the report of the annual examination of the auditor of the credit union.

Examination of leagues

(3) The Director shall make an annual examination of each league at the expense of the Corporation, and shall give a copy of his report to the Corporation.

Contents of examiner's report

115.—(1) The person examining the affairs of a credit union under section 114 shall include in the report whether or not, in his opinion, there has been any change in the circumstances of the credit union that might materially affect the financial position of the credit union and particularly, without limiting the generality of the foregoing, whether or not, in his opinion,

(*a*) the assessment return made by the Corporation and in which payment to the Corporation was based are correct;

(*b*) the operations of the credit union are being conducted in accordance with sound business and financial practices; and

(*c*) the credit union is in a satisfactory financial condition.

Idem

(2) Each report shall further state whether or not, in the opinion of the examiner under section 114, there has been any contravention of the provisions of this Act and shall be served on the credit union.

Order taking over management

116.—(1) Where the Corporation has received a report under sections 114 and 115, that the affairs of a credit union are not in a satisfactory financial condition, and has given the credit union an opportunity to be heard and after such further inquiry and investigation as the Corporation sees fit to make, the Corporation agrees with the report, the Corporation by order, shall itself or by some other person named in

the order, forthwith take possession of the property of such credit union and conduct its business and take such steps as in the Corporation's opinion may be taken toward the removal of the causes and conditions which have made such proceedings necessary, and for such purposes and without limiting the generality of the foregoing,

(*a*) the Corporation, or person named in the order, has all the powers of the board of directors of the credit union;

(*b*) the Corporation, or person named in the order, has power to exclude from the credit union its officers, directors, servants and agents from the property and business of the credit union; and

(*c*) the Corporation, or person named in the order, has power to carry on, manage and conduct the operations of the credit union and in the name of the credit union to preserve, maintain, realize, dispose of and add to the property of the credit union, to amalgamate with another credit union or to sell to another credit union all or part of its assets, subject to section 130 or 131 to receive the incomes and revenues of the credit union and to exercise all the powers of the credit union.

Idem, upon request

(2) Upon the request of a credit union, the Corporation may with respect to such credit union exercise the powers mentioned in subsection 1.

Termination of order

117. If at any time the Corporation considers that the affairs of the credit union have been placed in a satisfactory financial condition, the Corporation may return possession of the property of the credit union to it, and, upon such return, the order and the powers of the Corporation under which the Corporation took possession of the property of the credit union terminate.

Review of order

118.—(1) A credit union may apply to the Commercial Registration Appeal Tribunal for a review of any order of the Corporation under subsection 1 of section 116 within thirty days after the making of the order and the delivery of a copy thereof to an officer of the credit union.

Stay

(2) The order of the Corporation takes effect immediately, but the Tribunal may grant a stay until the review is disposed of.

Hearing

(3) The Tribunal shall fix a time and place for a hearing of the application and shall at least ten days before the day

fixed cause notice thereof to be served upon the applicant, the Corporation, the Director and any other person appearing to the Tribunal to have an interest in the application.

Parties

(4) Every person upon whom notice of the hearing is served and any other person added by the Tribunal are parties to the proceedings.

Powers of Tribunal

(5) The Tribunal shall hold the hearing and may by order direct the Corporation to take such action as the Tribunal considers proper or to refrain from taking any action specified in the order and thereupon the Corporation shall act accordingly.

Further decision

(6) Notwithstanding the order of the Tribunal, the Corporation has power to make any further reports and orders on new material or where there is a material change in the circumstances, and any such further order is subject to review under this section.

WINDING UP

Interpretation

119. In sections 120 to 128, "contributory" means a person who is liable to contribute to the property of a credit union in the event of the credit union being wound up under this Act.

Voluntary winding up

120.—(1) Where the members of a credit union by a special resolution require the credit union to be wound up, the credit union may be wound up voluntarily.

Appointment of liquidator

(2) At such meeting, the members shall appoint one or more persons, who may be directors, officers or employees of the credit union or a league, as liquidator of the estate and effects of the credit union for the purpose of winding up its affairs and distributing its property, and may at that or any subsequent general meeting fix his remuneration and the costs, charges and expenses of the winding up.

Publication of notice of winding up

(3) A credit union shall file a copy of the resolution requiring the voluntary winding up of the credit union with the Director within ten days after the resolution has been passed and shall publish a notice of the resolution in *The Ontario Gazette* within twenty days after the resolution has been passed and in a newspaper having a general circulation in the locality in which the head office of the credit union is situate.

Vacancy in office of liquidator

(4) Where in a voluntary winding up a vacancy occurs in the office of liquidator by death, resignation or other-

wise, the members by a majority of the votes cast at a general meeting called for that purpose may elect a liquidator to fill the vacancy.

Removal of liquidator

(5) The members of the credit union may by a majority of the votes cast at a general meeting called for that purpose remove a liquidator previously appointed and in such case shall appoint another liquidator in his stead.

Commencement of winding up

(6) A voluntary winding up commences at the time of the passing of the resolution requiring the winding up.

Credit union to cease undertaking

(7) Where a credit union is being wound up voluntarily, the credit union shall, from the date of the commencement of the winding up, cease to carry on its undertaking, except in so far as may be required for the beneficial winding up thereof, and notwithstanding that it may be otherwise provided by its charter or by-laws, its corporate existence and all its corporate powers continue until the affairs of the credit union are wound up.

No proceeding against credit union without leave

(8) After the commencement of a voluntary winding up, no action or other proceedings shall be commenced against the credit union and no attachment, sequestration, distress or execution shall be put in force against the estate or effects of the credit union except by leave of the court and subject to such terms as the court imposes.

Liquidator to take custody

(9) Upon his appointment, the liquidator shall take custody and control of all property, rights and privileges of the credit union or to which the credit union appears to be entitled and shall take all necessary steps to wind up the credit union.

Liquidator to file with Director

(10) Within sixty days after his appointment, the liquidator shall prepare a statement of the assets, debts and liabilities of the credit union and shall file the statement with the Director.

List of contributories and calls

(11) Upon a voluntary winding up, the liquidator,

(*a*) shall settle the list of contributories;

(*b*) may, before he has ascertained the sufficiency of the property of the credit union, call on all or any of the contributories for the time being settled on the list of contributories, to the extent of their liability, to pay any sum that he considers necessary to satisfy the liabilities of the credit union, and the costs, charges and expenses of winding up and for the

adjustment of the rights of the contributories among themselves;

(*c*) a list of contributories settled by the liquidator is admissible in evidence as *prima facie* proof of the liability of the persons named therein to be contributories.

Meetings of credit union during winding up

(12) The liquidator may, during the continuance of the voluntary winding up, call general meetings of the members of the credit union for the purpose of obtaining their approval by resolution or for any other purpose as he thinks fit.

Arrangements with creditors

(13) The liquidator, with the approval of a resolution of the members of the credit union passed in general meeting, may make such compromise or other arrangement as the liquidator thinks expedient with any creditor or person claiming to be a creditor or having or alleging that he has a claim, present or future, certain or contingent, liquidated or unliquidated, against the credit union or whereby the credit union may be rendered liable.

Power to compromise with debtors and contributors

(14) The liquidator may, with the approval of a resolution of the members of the credit union passed in general meeting, compromise all debts and liabilities capable of resulting in debts and all claims, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist between the credit union and any contributory, alleged contributory or other debtor or person who may be liable to the credit union and all questions in any way relating to or affecting the property of the credit union, or the winding up of the credit union upon the receipt of such sums payable at such times and generally upon such terms as are agreed, and the liquidator may take any security for the discharge of such debts or liabilities and give a complete discharge in respect thereof.

Account to be made by liquidator

(15) The liquidator shall make up an account showing the manner in which the winding up has been conducted and the property of the credit union disposed of, and thereupon shall call a general meeting of the members of the credit union for the purpose of having the account laid before them and hearing any explanation that may be given by the liquidator and with the approval of a majority of the votes within ten days after the holding of the meeting cast at the meeting, the liquidator shall send a notice to the Director stating that the meeting was held, the date thereof and requesting dissolution.

Director to recommend dissolution

(16) The Director, upon being satisfied that the affairs of the credit union have been duly liquidated, may in

writing recommend to the Minister that the credit union be dissolved.

(17) The Minister may by order declare the credit union to be dissolved on such date as the order fixes and shall cause notice of any such dissolution of the credit union to be given in *The Ontario Gazette* and to the Director. Dissolution

121.—(1) A credit union may be wound up by order of the court, Winding up by court order

(*a*) where the members by a majority of the votes cast at a general meeting called for that purpose, pass a resolution authorizing an application to be made to the court to wind up the credit union;

(*b*) where proceedings have been commenced to wind up the credit union voluntarily and it appears to the court that it is in the interest of contributories and creditors that the proceedings should be continued under the supervision of the court;

(*c*) where it is proved to the satisfaction of the court that the credit union, though it may be solvent, cannot by reason of its liabilities continue its business and that it is advisable to wind it up; or

(*d*) where in the opinion of the court it is just and equitable for some reason other than the bankruptcy or insolvency of the credit union that it should be wound up.

(2) A winding up order may be made upon the application of the credit union or a member or, where the credit union is being wound up voluntarily, upon the application of the Director, liquidator or contributory or of a creditor having a claim of $200 or more. Who may apply

(3) Except where the application is made by the credit union, four days notice of the application shall be given to the credit union. Notice to credit union

(4) Except where the application is made by the Director, four days notice of the application shall be given to the Director. Notice to Director

(5) The court may, Power of court

(*a*) make the order applied for;

(*b*) dismiss the application with or without costs;

(*c*) adjourn the hearing conditionally or unconditionally;

(*d*) make an interim or other order as it considers appropriate; or

(*e*) refer the proceedings for the winding up to an officer of the court for inquiry and report and may authorize the officer to exercise such powers of the court as are necessary for the reference.

Appointment of liquidator

(6) The court making the winding up order may appoint one or more persons as liquidator of the estate and effects of the credit union for the purpose of winding up its affairs and distributing its property.

Remuneration

(7) The court may at any time fix the remuneration of the liquidator and the costs, charges and expenses of the winding up.

Vacancy

(8) Where a liquidator who is appointed by the court dies or resigns or the office becomes vacant for any reason, the court may fill the vacancy.

Removal

(9) The court may by order, for cause, remove a liquidator appointed by it and appoint another liquidator in his stead.

Notice of appointment

(10) A liquidator appointed by the court shall forthwith give notice to the Director and the Minister of the court order respecting the winding up and shall publish the notice in *The Ontario Gazette*.

Commencement of winding up

(11) Where a winding-up order is made by the court without prior voluntary winding-up proceedings, the winding up shall be deemed to commence at the time of the service of the notice of the application upon the Director.

Proceedings in winding up after order

(12) Where a winding-up order has been made by the court, proceedings for the winding up of the credit union shall be taken in the same manner and with the like consequences as are provided for a voluntary winding up, except that,

(*a*) the list of contributories shall be settled by the court unless it has been settled by the liquidator before the winding-up order; and

(*b*) all proceedings in the winding up are subject to the order and direction of the court.

Review by court

(13) Where the list of contributories has been settled by the liquidator before the winding-up order, it is subject to review by the court.

Meeting of members may be ordered

(14) Where a winding-up order has been made by the court, the court may direct meetings of the members of the credit union to be called, held and conducted in such manner as the court thinks fit for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting and to report the results of it to the court.

Order for delivery of property

(15) Where a winding-up order has been made by the court, the court may require any contributory for the time being settled on the list of contributories, or any director, employee, trustee, receiver, banker, agent or officer of the credit union, to pay, deliver, convey, surrender or transfer forthwith, within such time as the court directs, to the liquidator any money, books, papers, registers and other records, estate or effects that are in his hands and to which the credit union is, *prima facie*, entitled.

Inspection of documents and records

(16) Where a winding-up order is made by the court, the court may make an order for the inspection of the books, papers, registers and other records of the credit union by its creditors and contributories, and any documents and records in the possession of the credit union may be inspected in conformity with the order.

Proceedings against credit union after order

(17) After the commencement of a winding up by order of the court,

(*a*) no action or other proceedings shall be commenced or continued against the credit union; and

(*b*) no attachment, sequestration, distress or execution shall be carried out against the estate or effects of the credit union,

except by leave of the court and subject to such terms as the court may impose.

Provision for discharge of liquidator and distribution by the court

(18) Where the realization and distribution of the property of a credit union being wound up under an order of the court has proceeded so far that in the opinion of the court it is expedient that the liquidator should be discharged and that the property of the credit union remaining in his hands

can be better realized and distributed by the court, the court may make an order discharging the liquidator and for payment, delivery and transfer into court, or to such officer or person as the court directs, of such property, and it shall be realized and distributed by or under the direction of the court among the persons entitled thereto in the same way as nearly as may be as if the distribution were being made by the liquidator and the court may make an order directing how the documents and records of the credit union and of the liquidator are to be disposed of, and may order that they be deposited in court or otherwise dealt with as the court considers appropriate.

Order for dissolution

(19) The court at any time after the affairs of the credit union have been fully wound up may, upon the application of the liquidator or any other person interested, make an order dissolving it, and it is dissolved on the date fixed in the order.

Notice to Director

(20) The person on whose application the order was made shall, within ten days after it was made, file with the Director a certified copy of the order and the Director shall cause notice of the dissolution to be made in *The Ontario Gazette*.

Dissolution by the Minister

122.—(1) The Director, after the credit union has been given an opportunity to be heard by the Director, may recommend to the Minister that an order be made dissolving a credit union if he is satisfied that,

(*a*) its incorporation was obtained by fraud or mistake;

(*b*) it exists for an illegal purpose;

(*c*) the number of its members is reduced to fewer than twenty;

(*d*) it is not carrying on business or is not in operation; or

(*e*) it has contravened any of the provisions of this Act or the regulations.

Notice to credit union

(2) Where the Director recommends to the Minister that an order be made dissolving a credit union, a copy of his recommendations and the reasons therefor shall be delivered to the credit union.

Submissions to Minister

(3) The credit union may, within fifteen days after receiving the copy of recommendations and reasons of the Director

under subsection 2, make written submissions to the Minister in respect thereof.

Order for dissolution

(4) After considering the recommendations of the Director and the submissions, if any, of the credit union, the Minister may, in his discretion, order that the credit union be dissolved and, if necessary, shall appoint a liquidator to carry out the dissolution.

Liquidation

(5) The liquidator shall proceed to wind up the credit union and subsections 7 to 17 of section 120 apply thereto, except that no approval of the members of the credit union is required thereunder.

Director to report

(6) The Director upon being satisfied that the affairs of the credit union have been duly liquidated shall so report to the Minister.

Order declaring dissolution

(7) The Minister may by order declare that the credit union has been dissolved on such date as the order fixes and shall cause notice of the dissolution to be given in *The Ontario Gazette*.

Liability of members to creditors

123.—(1) Notwithstanding the dissolution of a credit union, each of the members among whom its property has been distributed other than the refunds of deposits, remains liable to its creditors to the extent of the amount received by him upon the distribution, and an action in a court of competent jurisdiction to enforce such liability may be brought against him within two years from the date of the dissolution and not thereafter.

Action against one member as representing class

(2) Where there are numerous members, the court referred to in subsection 1 may permit an action to be brought against one or more members as representatives of the class and, if the plaintiff establishes his claim as creditor, may make an order of reference and add as parties in the referee's office all such members as are found, and the referee shall determine the amount that each should contribute towards the plaintiff's claim and may direct payment of the sums so determined.

Forfeiture of undisposed property

124. Subject to section 123, any real or personal property of a credit union that has not been disposed of at the date of its dissolution is forfeit to the Ontario Share and Deposit Insurance Corporation.

Responsibilities of liquidator

125. Upon a winding up of a credit union,

(*a*) the liquidator shall apply the property of the credit

union in satisfaction of all its debts, obligations and liabilities, and, subject thereto, shall distribute any remaining property rateably among the members according to their rights and interests in the credit union;

(*b*) in distributing the property of the credit union, debts due to the employees of the credit union for services performed due at the commencement of the winding up or within one month before, not exceeding three months wages and accumulated sickness benefits or vacation pay accrued for not more than twelve months, shall be paid in priority to the claims of the ordinary creditors, and such persons shall rank as ordinary creditors for any additional amount of their claims for wages;

(*c*) all the powers of the board of directors of a credit union being wound up cease upon the appointment of a liquidator except to the extent that the liquidator may permit the continuance of these powers for the purpose of assisting the winding up proceedings.

Distribution of property R.S.O. 1970, c. 470

126. Section 53 of *The Trustee Act* applies *mutatis mutandis* to liquidators.

Payment of costs and expenses

127. The costs, charges and expenses of the winding up including the remuneration of the liquidator are payable out of the property of the credit union in priority to all other claims.

Powers of liquidator

128.—(1) A liquidator may,

(*a*) bring or defend any action, suit or prosecution, or other legal proceedings, civil or criminal, in the name and on behalf of the credit union;

(*b*) carry on the business of the credit union so far as may be necessary for the beneficial winding up of the credit union;

(*c*) sell the real and personal property of the credit union by public auction or private sale;

(*d*) borrow money on behalf of the credit union as may be necessary for the winding up of the credit union;

(*e*) draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the credit union;

(*f*) raise upon the security of the property of the credit union such moneys as may be required;

(*g*) take out in his official name, letters of administration of the estate of any deceased contributory and in his official name, do any other act that may be necessary for obtaining payment of any money due from a contributory or from his estate that cannot conveniently be done in the name of the credit union;

(*h*) do and perform all acts and other things and execute under the corporate seal or otherwise all documents in the name and on behalf of the credit union as may be necessary for winding up the affairs of the credit union and distributing its property;

(*i*) engage the services of a solicitor to assist him in the performance of his duty;

(*j*) employ an agent to do any business that the liquidator is unable to do himself;

(*k*) claim and, where necessary, prove any claim against the estate of a contributory for any debt or liability to the credit union;

(*l*) receive dividends in the distribution of an estate of a contributory in respect of any debt or liability mentioned in clause *k*;

(*m*) compromise all calls, and liabilities to call, debts and liabilities capable of or resulting in debts, and all claims, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or alleged as subsisting between the credit union and any other person;

(*n*) do and execute all such other things as are necessary for winding up the affairs of the credit union and distributing its property.

Bills of exchange deemed drawn in the course of business

(2) The execution, endorsement or making of all agreements, contracts, bills of exchange or other documents by a liquidator on behalf of a credit union has the same effect with respect to the rights and liabilities of the credit union as if the agreements, contracts or bills of exchange or other documents had been executed, endorsed or made by or on behalf of the credit union in the course of carrying on its business.

Where approval required

(3) The liquidator shall not exercise power granted under clause *a*, *d*, *f*, *m* or *n* of subsection 1,

(*a*) in the case of a voluntary winding up, unless he has obtained the approval in writing of the Director; or

(*b*) in the case of a winding up by order of the court, unless he has obtained the approval of the court.

Notice of liability of contributory

(4) The liability of a contributory is a debt accruing due from him at the time when his liability commenced, but payable at the time when calls are made for enforcing the liability.

Who liable in case of death

(5) Where a contributory dies before or after he is placed on the list of contributories, his personal representative, in administering the estate of the contributory, is liable to contribute to the property of the credit union in discharge of the liability of the deceased contributory and shall be a contributory accordingly.

Examination of persons as to estate

(6) The court may, at any time after the commencement of the winding up, summon to appear before the court or liquidator, any director, manager, employee or officer of the credit union, or any other person known or suspected to have in his possession any of the estate or effects of the credit union, or alleged to be indebted to the credit union, or any person whom the court thinks capable of giving information concerning the dealings, estate or effects of the credit union.

Damages against delinquent directors, etc.

(7) Where, in the course of the winding up of a credit union, it appears that a person who has taken part in the formation or promotion of the credit union or any past or present director, manager, officer, employee, liquidator or receiver of the credit union has misapplied or retained in his own hands, or become liable or accountable for money of the credit union, or has committed any misfeasance or breach of trust in relation to the credit union, the court may, on the application of a creditor, member, director, liquidator, or contributory, inquire into the conduct of that person and order him to restore the money so misapplied or retained, or for which he has become liable or accountable together with interest at such rate as the court considers just or to contribute such sum to the property of the credit union by way of compensation in respect of the misapplication, retention, misfeasance or breach of trust as the court considers just.

(8) Where a credit union has been wound up under this Act and is about to be dissolved, the books, registers and other records and papers of the credit union and of the liquidator may be disposed of in such manner as the Director may order, in the case of voluntary winding up, or as the court may order in the case of winding up under court order. Disposal of records

(9) The Lieutenant Governor in Council may make regulations respecting the procedure to be followed in a winding up, and, unless otherwise provided by this Act or by those regulations, the practice and procedure in a winding up under the *Winding-up Act* (Canada) apply. Regulations R.S.C. 1970, c. W-10

129. Where proceedings are taken under the *Winding-up Act* (Canada) in respect of a credit union, the secretary of the credit union shall send notice thereof to the Director by registered mail. Notice of winding-up proceedings

AMALGAMATIONS

130.—(1) Any two or more credit unions may amalgamate and continue as one credit union. Amalgamation of credit unions

(2) The credit unions proposing to amalgamate shall enter into an agreement for the amalgamation prescribing the terms and conditions of the amalgamation, the mode of carrying the amalgamation into effect, and, in particular, the agreement shall set out, Amalgamation agreement

(*a*) the name of the amalgamated credit union;

(*b*) the limitation on membership in the amalgamated credit union;

(*c*) the name in full, callings and places of residence of the first directors of the amalgamated credit union;

(*d*) the time and manner of election of subsequent directors of the amalgamated credit union;

(*e*) the par value of each share of the amalgamated credit union;

(*f*) the manner of converting the share capital of each of the amalgamating credit unions into that of the amalgamated credit union;

(*g*) such other details as are necessary to perfect the

amalgamation and to provide for the subsequent management and operation of the amalgamated credit union.

Filing of agreement

(3) Within one month after the agreement is signed, the parties shall file with the Director, in triplicate, true copies of the amalgamation agreement.

Submission to members of credit unions

(4) The agreement is subject to the approval of the Director, and to adoption by a vote of two-thirds of the votes cast at a meeting of each of the amalgamating credit unions called for the purpose of considering the agreement within one month after the approval of the Director is given and, when so adopted, the fact shall be certified upon the agreement by the secretary of each of the amalgamating credit unions under the corporate seal.

Application for certificate of amalgamation

(5) If the agreement is adopted in accordance with subsection 3, the amalgamating credit unions may apply jointly to the Minister for a certificate of amalgamation.

Certificate of amalgamation

(6) The Minister may, in his discretion, issue a certificate of amalgamation, and on and after the date of the certificate such amalgamating credit unions are amalgamated and are continued as one credit union under the name set forth in the certificate, and the amalgamated credit union possesses all the property, rights, privileges and franchises and is subject to all the liabilities, contracts, disabilities and debts of each of the amalgamating credit unions.

Notice

(7) The Minister shall cause notice of the issue of the certificate of amalgamation to be given in *The Ontario Gazette* and to the Director.

Sale and purchase of assets

131.—(1) A credit union may sell all or any part of its assets to another credit union or it may purchase all or any part of the assets of another credit union in accordance with this section.

Agreement

(2) The agreement of purchase and sale is subject to the approval of the Director.

Purchase price

(3) The purchasing credit union may assume, as part of the purchase price, any or all of the liabilities of the selling credit union and may pay the balance in cash or by the issue of shares or promissory notes to the selling credit union or the members thereof whether or not such members are members of the purchasing credit union.

Approval by members

(4) The agreement as approved by the Director is subject

to the approval of the members of each of the credit unions by at least a two-thirds vote of the members present at each meeting, and the secretary of each credit union shall certify on the agreement that it has been so approved and shall forward a copy of the agreement so certified to the Director.

Effect of approval

(5) Upon the approval of the members of each of the credit unions, the agreement is binding on each of the credit unions and the sale shall thereafter be completed as of the effective date specified in the agreement.

Effective date

(6) In the event the agreement does not specify an effective date, the Director may fix a date upon which it will become effective.

Where all assets disposed of

(7) If the selling credit union has disposed of all its assets under the agreement, it shall cease to carry on business on the effective date of the agreement, except for the purpose of winding up its affairs, and it shall dissolve as soon as possible thereafter.

Where approval deemed given

(8) If the total assets of the selling credit union are less than 15 per cent of the total assets of the purchasing credit union, the membership of the purchasing credit union shall be deemed to have given approval to the transaction.

REORGANIZATION

Amendment of Articles

Amendments

132.—(1) Subject to sections 133 and 134, a credit union may, from time to time, amend its articles of incorporation to,

(*a*) limit or otherwise vary its powers;

(*b*) change its name;

(*c*) provide for any other matter that is authorized by this Act to be set out in the articles or that could be subject to a by-law of the credit union.

Authorization

(2) An amendment under subsection 1 shall be authorized by special resolution and such further authorization as the by-laws provide.

Articles of amendment

133. The credit union shall deliver to the Minister, within six months after the special resolution has been confirmed by the members, articles of amendment in duplicate, executed under the seal of the credit union and signed by two officers, or by one director and one officer, of the credit union and verified by affidavit of one of the officers or directors signing the articles of amendment, setting out,

(*a*) the name of the credit union;

(*b*) a certified copy of the special resolution;

(*c*) that the amendment has been duly confirmed and authorized as required by section 132; and

(*d*) the date of the confirmation of the special resolution by the members.

Certificate of amendment

134.—(1) If the articles of amendment conform to law, the Minister shall, when all prescribed fees have been paid,

(*a*) endorse on each duplicate of the articles of amendment the word "Filed" and the day, month and year of the filing thereof;

(*b*) file one of the duplicates in his office; and

(*c*) issue to the corporation or its agent a certificate of amendment to which he shall affix the other duplicate.

Effect of certificate

(2) The amendment becomes effective upon the date set forth in the certificate of amendment and the articles of incorporation are amended accordingly.

Restatement of Articles

Restatement of articles

135.—(1) Subject to subsections 2 and 3, a credit union may at any time restate its articles of incorporation as theretofore amended.

Filing of restatement

(2) The credit union shall deliver to the Minister the restated articles in duplicate, executed under the seal of the credit union and signed by two officers, or by one director and one officer, of the credit union and verified by affidavit of one of the officers or directors signing the restated articles, setting out,

(*a*) all the provisions that are then set out in the original articles of incorporation as theretofore amended; and

(*b*) a statement that the restated articles correctly set out without change the corresponding provisions of the original articles as theretofore amended.

Certificate of restatement

(3) If the restated articles of incorporation conform to law, the Minister shall, when all prescribed fees have been paid,

(*a*) endorse on each duplicate of the restated articles the word "Filed" and the day, month and year of the filing thereof;

(*b*) file one of the duplicates in his office; and

(*c*) issue to the credit union or its agent a restated certificate of incorporation to which he shall affix the other duplicate.

Effect of certificate

(4) The restated articles of incorporation become effective upon the date set forth in the restated certificate and supersede the original articles of incorporation and all amendments thereto.

RETURNS AND INSPECTIONS

Annual statements

136.—(1) A credit union shall, not later than four months after the end of its fiscal year, deliver to the Director, in the form prescribed by the regulations, a statement of operations, a balance sheet and the auditor's report, if any, and the statements shall also contain such other information as to compliance with this Act and the regulations as the Director requires.

Information for Director

(2) A credit union shall furnish the Director with such statements with respect to its business, finances and other affairs and with such other information as he requires and the board of directors, officers and employees shall cause their books and records to be open for inspection and otherwise facilitate any examination.

Verification

(3) The statement and other information required shall be certified by the supervisory committee and the president and by the treasurer or manager.

Inspection by appointee of Director

137. When the Director is required or authorized by this Act to make an examination, inspection or investigation, he may appoint in writing a duly qualified member of his staff to make such examination, inspection or investigation on his behalf.

Examination

138.—(1) The Director or any person authorized in writing by the Director shall review the annual statements received by him and he shall be given such additional information as he requires by both the Ontario Share and Deposit Insurance Corporation and the credit union and he may visit the head office of each credit union and he may inspect and examine into the conditions and affairs of any

credit union and shall be given access to all books, records and other documents and may make such inquiries as are necessary to ascertain its condition and ability to provide for the payment of its liabilities as they become due, and whether or not it has complied with this Act.

Report to Corporation

(2) Where the Director considers it necessary and believes on reasonable and probable grounds that a credit union is unable to provide for the payment of its liabilities as they become due he shall immediately report thereon in writing to the Ontario Share and Deposit Insurance Corporation.

Further examination

(3) Where the Director believes on reasonable and probable grounds that a credit union has failed to comply with the provisions of this Act or the regulations and it is expedient to make a further examination into the affairs of a credit union, the Director may, in his discretion, visit or cause a member of his staff to visit any office of the credit union to inspect and examine into its affairs and to make such further inquiries as the Director may require.

Material to be furnished on inspection

(4) For the purpose of the examination referred to in subsection 5, the credit union shall prepare and submit to the Director such statements with respect to its business, finances or other affairs, in addition to the statement mentioned in section 136, as the Director may require, and the board of directors, officers, agents and servants of the credit union shall cause its books to be open for inspection and shall otherwise facilitate such examination.

Examination under oath

1971, c. 49

(5) Upon such inspection or examination, the Director, or any person authorized by him, has the powers of a Commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to the inquiry as if it were an inquiry under that Act.

Prohibition against accepting deposits

139.—(1) Where it appears to the Director from an examination of the condition and affairs of a credit union that the assets are shown on the statement mentioned in section 136 at an amount greater than the true value, he may require the credit union to set aside out of earnings such additional reserves as he considers necessary, and, where in his opinion the value of the assets of the credit union is less than its liabilities, including the deposits and share accounts of its members, the Director may prohibit the credit union from taking further deposits or payments to its members, or may limit such payments for such period as he considers necessary to protect the interests of the members,

and he may take such other action as he considers necessary for the protection or in the interest of the members, including the calling of meetings of members and having his representative attend the meeting for the purpose of explaining the situation to the members.

Suspension of business

(2) The Director may order a credit union to discontinue doing business for such time as he determines if, after an inspection thereof, he is satisfied that the continuance in business of the credit union is not in the members interest and shall report forthwith to the Ontario Share and Deposit Insurance Corporation the order made and the reasons therefor.

EXTRA-PROVINCIAL CREDIT UNIONS

Extra-provincial credit unions

140.—(1) Where the Government of Ontario has entered into an agreement providing for reciprocal rights for credit unions with the government of a province or territory of Canada, a credit union incorporated under the laws of that province or territory may register under this Act for such purposes as are specified in the agreement.

Register

(2) The Director shall maintain a register called the "Extra-Provincial Credit Unions Register" wherein shall be recorded the names of the credit unions registered and the limited purposes to which they are subject in Ontario.

Condition precedent to licence under R.S.O. 1970, c. 89

(3) No credit union that is an extra-provincial corporation within the meaning of *The Corporations Act* shall be licensed under that Act as an extra-provincial corporation unless it has been first registered under this Act by the Director.

OFFENCES

Offences re records and inspections

141.—(1) Every person who,

(*a*) refuses or neglects to make an entry in any record required by this Act, the regulations or the by-laws to be kept;

(*b*) refuses to produce any document or record of a credit union for the purpose of any inspection, examination or investigation authorized by this Act, the regulations or the by-laws;

(*c*) obstructs any person authorized by this Act, the regulations or the by-laws to inspect, examine or investigate the affairs of the credit union,

is guilty of an offence and is liable on summary conviction to a fine of not more than $2,000.

Officers of corporations

(2) Where a corporation is guilty of an offence referred to in subsection 1, every director or officer thereof who authorized, permitted or acquiesced in the offence is also guilty of the offence and on summary conviction is liable to a fine of not more than $2,000.

Offence, false statements

142.—(1) Every person who makes or assists in making a statement in any document required by or for the purposes of this Act or the regulations or the by-laws of a credit union that, at the time and in the light of the circumstances under which it was made, is false or misleading in respect of any material fact or that omits to state any material fact the omission of which makes the statement false or misleading is guilty of an offence.

Defence

(2) No person is guilty of an offence under subsection 1 if he did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading.

Failure to file annual return

143.—(1) A credit union that is in default of filing the annual statement required by section 136 is guilty of an offence and upon summary conviction is liable to a fine of not more than $50 for each day such default continues.

Failure to pay Corporation

(2) A credit union that is in default of payment of any assessment made on it by the Ontario Share and Deposit Insurance Corporation is guilty of an offence and upon summary conviction is liable to a fine of not more than $50 for each day such default continues.

General penalty

144.—(1) Every person who is guilty of an offence under this Act for which no penalty is otherwise provided is liable on summary conviction to a fine of not more than $2,000 or, if such person is a corporation, to a fine of not more than $10,000.

Officers of corporations

(2) Where a corporation is guilty of an offence referred to in subsection 1, every director or officer thereof who authorized, permitted or acquiesced in the offence is also guilty of the offence and on summary conviction is liable to a fine of not more than $2,000.

REGULATIONS

Regulations

145. The Lieutenant Governor in Council may make regulations,

(*a*) prescribing the procedure and forms to be used under this Act;

(*b*) requiring and prescribing the fees payable for incorporation of credit unions and credit union leagues, for amalgamation of credit unions, for changing the name of credit unions, upon filing any articles of incorporation, return or other document required or permitted to be filed under this Act, for searches, and for certified copies of certificates of incorporation and other documents;

(*c*) respecting the holding of first meetings, the notice calling the meeting, the quorum, and the business to be transacted;

(*d*) prescribing matters to be shown in financial statements under clause *a* of subsection 2 of section 71;

(*e*) governing the operations and powers of branches of credit unions;

(*f*) governing credit unions and leagues of credit unions;

(*g*) prescribing any matter required by this Act to be prescribed by the regulations.

MISCELLANEOUS

Transitional continuance, of letters patent, etc.

146.—(1) The letters patent, supplementary letters patent or memorandum of association of any credit union to which this Act applies continue and shall be deemed to be amended in accordance with the provisions of this Act on the day that it comes into force and any additions or amendments to or deletions from any provision in the memorandum of association, letters patent or supplementary letters patent of a credit union shall be made in accordance with this Act.

(2) Any investment made by a credit union prior to the date of the coming into force of this Act that, but for this Act, would have been an authorized investment may be disposed of prior to maturity or held to maturity and any realized gains or losses may be brought through income accounts over the period to maturity.

Repeals

147. The following are repealed:

1. *The Credit Unions Act*, being chapter 96 of the Revised Statutes of Ontario, 1970.

2. *The Credit Unions Amendment Act, 1972*, being chapter 172.

3. *The Credit Unions Amendment Act, 1974*, being chapter 39.

4. Paragraph 10 of the Schedule to *The Age of Majority and Accountability Act, 1971*, being chapter 98.

5. Section 38 of *The Government Reorganization Act, 1972*, being chapter 1.

Commencement

148. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

149. This Act may be cited as *The Credit Unions and Caisses Populaires Act, 1976*.

The Credit Unions and Caisses Populaires Act, 1976

1st Reading

June 3rd, 1976

2nd Reading

October 26th, 1976

3rd Reading

December 3rd, 1976

THE HON. S. B. HANDLEMAN
Minister of Consumer and
Commercial Relations

1976

Government
Publications

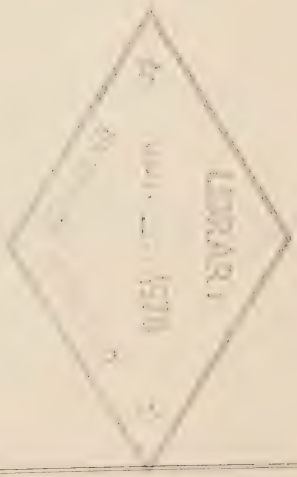
BILL 98

Government Bill

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

An Act to amend The Travel Industry Act, 1974

THE HON. S. B. HANDLEMAN
Minister of Consumer and Commercial Relations



TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

Section 1. The new provision modifies the vicarious joint liability of a travel agent where he is acting in good faith and there is recourse from the compensation fund.

Section 2. The new provision provides for freezing of a registrant's assets where an investigation is being made under section 20.

ILL 98

1976

An Act to amend The Travel Industry Act, 1974

ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as ows:

1. Section 13 of *The Travel Industry Act, 1974*, being chapter 115, is amended by adding thereto the following subsection: s. 13, amended

(2) Subsection 1 does not apply where, Application of sub-section 1

(*a*) the travel agent or travel wholesaler has properly disbursed the money received;

(*b*) the travel agent or travel wholesaler has acted in good faith and at arm's length with any person with whom he would, but for this subsection, be jointly liable under subsection 1;

(*c*) the person referred to in subsection 1 who is entitled to repayment of money is entitled to be reimbursed therefor out of the compensation fund established under the regulations,

unless the travel agent or travel wholesaler would, but for this subsection, be jointly liable under subsection 1 with a travel agent and travel wholesaler who is not registered under this Act.

2. The said Act is amended by adding thereto the following section: s. 21*a*, enacted

21*a*.—(1) Where, Order to refrain from dealing with assets

(*a*) an investigation of any person has been ordered under section 20; or

(*b*) criminal proceedings or proceedings in relation to a contravention of any Act or regulation are about

Explanatory Notes

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BILL 98 **1976**

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unless the travel agent or travel wholesaler would, but for this subsection, be jointly liable under subsection 1 with a travel agent and travel wholesaler who is not registered under this Act.

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21*a*.—(1) Where, Order to refrain from dealing with assets

(*a*) an investigation of any person has been ordered under section 20; or

(*b*) criminal proceedings or proceedings in relation to a contravention of any Act or regulation are about

to be or have been instituted against a person that are connected with or arise out of the business in respect of which registration is required under this Act,

the Director, if he believes it advisable for the protection of customers of the person referred to in clause *a* or *b*, may, in writing or by telegram, direct any person having on deposit or under control or for safekeeping any assets or trust funds or direct the person referred to in clause *a* or *b* to hold such assets or trust funds or direct the person referred to in clause *a* or *b* to refrain from withdrawing any such assets or trust funds from any person having any of them on deposit or under control or for safekeeping or to hold such assets or any trust funds of investors, customers or others in his possession or control in trust for any interim receiver or liquidator appointed under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Corporations Act*, *The Business Corporations Act*, or the *Winding-up Act* (Canada), or until the Director revokes or the Tribunal cancels such direction or consents to the release of any particular assets or trust funds from the direction but, in the case of a bank, loan or trust company, the direction only applies to the office, branches or agencies thereof named in the direction.

R.S.C. 1970, cc. B-4, W-11
R.S.O. 1970, cc. 228, 89, 53

Bond in lieu

(2) Subsection 1 does not apply where the person referred to in clause *a* or *b* of subsection 1 files with the Director,

(*a*) a personal bond accompanied by collateral security;

(*b*) a bond of a guarantee company approved under *The Guarantee Companies Securities Act*; or

R.S.O. 1970, c. 196

(*c*) a bond of a guarantor, other than a guarantee company, accompanied by collateral security,

in such form, terms and amount as the Director may determine.

Application for direction

(3) Any person in receipt of a direction given under subsection 1, if in doubt as to the application of the direction to any assets or trust funds, or in case of a claim being made thereto by a person not named in the direction, may apply to a judge or local judge of the Supreme Court who may direct the disposition of such assets or trust funds and may make such order as to costs as seems just.

Notice to registrar of deeds, etc.

(4) In any of the circumstances mentioned in clause *a* or *b* of subsection 1, the Director may in writing or by telegram notify any registrar of deeds or master of titles

SECTION 3. The provision confirms O. Reg. 491/76 which governs the compensation fund, removing doubts and authorizing retrospectivity in respect of certain provisions of the regulation.

that proceedings are being or are about to be taken that may affect land belonging to the person referred to in the notice, and the notice shall be registered against the lands mentioned therein and has the same effect as the registration of a certificate of *lis pendens* except that the Director may in writing revoke or modify the notice.

Cancellation of direction or registration

(5) Any person referred to in clause *a* or *b* of subsection 1 in respect of whom a direction has been given by the Director under subsection 1 or any person having an interest in land in respect of which a notice has been registered under subsection 4 may, at any time, apply to the Tribunal for cancellation in whole or in part of the direction or registration and the Tribunal shall dispose of the application after a hearing and may, if it finds that such a direction or registration is not required in whole or in part for the protection of customers of the applicant or of other persons interested in the land or that the interests of other persons are unduly prejudiced thereby, cancel the direction or registration in whole or in part, and the applicant, the Director and such other persons as the Tribunal may specify are parties to the proceedings before the Tribunal.

O. Reg. 491/76 validated

3. O. Reg. 491/76 shall be deemed to be valid for all purposes notwithstanding that it or any part of it would, but for this section, be invalid.

Commencement

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. This Act may be cited as *The Travel Industry Amendment Act, 1976*.

An Act to amend
The Travel Industry Act, 1974

1st Reading

June 3rd, 1976

2nd Reading

3rd Reading

THE HON. S. B. HANDLEMAN
Minister of Consumer and
Commercial Relations

(*Government Bill*)

1976

BILL 98

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications

An Act to amend The Travel Industry Act, 1974

THE HON. S. B. HANDLEMAN
Minister of Consumer and Commercial Relations

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 98 **1976**

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1. Section 13 of *The Travel Industry Act, 1974*, being chapter 115, is amended by adding thereto the following subsection: s. 13, amended

(2) Subsection 1 does not apply where, Application of sub-section 1

(*a*) the travel agent or travel wholesaler has properly disbursed the money received;

(*b*) the travel agent or travel wholesaler has acted in good faith and at arm's length with any person with whom he would, but for this subsection, be jointly liable under subsection 1;

(*c*) the person referred to in subsection 1 who is entitled to repayment of money is entitled to be reimbursed therefor out of the compensation fund established under the regulations,

unless the travel agent or travel wholesaler would, but for this subsection, be jointly liable under subsection 1 with a travel agent and travel wholesaler who is not registered under this Act.

2. The said Act is amended by adding thereto the following section: s. 21*a*, enacted

21*a*.—(1) Where, Order to refrain from dealing with assets

(*a*) an investigation of any person has been ordered under section 20; or

(*b*) criminal proceedings or proceedings in relation to a contravention of any Act or regulation are about

to be or have been instituted against a person that are connected with or arise out of the business in respect of which registration is required under this Act,

the Director, if he believes it advisable for the protection of customers of the person referred to in clause *a* or *b*, may, in writing or by telegram, direct any person having on deposit or under control or for safekeeping any assets or trust funds or direct the person referred to in clause *a* or *b* to hold such assets or trust funds or direct the person referred to in clause *a* or *b* to refrain from withdrawing any such assets or trust funds from any person having any of them on deposit or under control or for safekeeping or to hold such assets or any trust funds of investors, customers or others in his possession or control in trust for any interim receiver or liquidator appointed under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Corporations Act*, *The Business Corporations Act*, or the *Winding-up Act* (Canada), or until the Director revokes or the Tribunal cancels such direction or consents to the release of any particular assets or trust funds from the direction but, in the case of a bank, loan or trust company, the direction only applies to the office, branches or agencies thereof named in the direction.

R.S.C. 1970, cc. B-4, W-11
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Bond in lieu

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(*a*) a personal bond accompanied by collateral security;

(*b*) a bond of a guarantee company approved under *The Guarantee Companies Securities Act*; or

R.S.O. 1970, c. 196

(*c*) a bond of a guarantor, other than a guarantee company, accompanied by collateral security,

in such form, terms and amount as the Director may determine.

Application for direction

(3) Any person in receipt of a direction given under subsection 1, if in doubt as to the application of the direction to any assets or trust funds, or in case of a claim being made thereto by a person not named in the direction, may apply to a judge or local judge of the Supreme Court who may direct the disposition of such assets or trust funds and may make such order as to costs as seems just.

Notice to registrar of deeds, etc.

(4) In any of the circumstances mentioned in clause *a* or *b* of subsection 1, the Director may in writing or by telegram notify any registrar of deeds or master of titles

that proceedings are being or are about to be taken that may affect land belonging to the person referred to in the notice, and the notice shall be registered against the lands mentioned therein and has the same effect as the registration of a certificate of *lis pendens* except that the Director may in writing revoke or modify the notice.

Cancellation of direction or registration

(5) Any person referred to in clause *a* or *b* of subsection 1 in respect of whom a direction has been given by the Director under subsection 1 or any person having an interest in land in respect of which a notice has been registered under subsection 4 may, at any time, apply to the Tribunal for cancellation in whole or in part of the direction or registration and the Tribunal shall dispose of the application after a hearing and may, if it finds that such a direction or registration is not required in whole or in part for the protection of customers of the applicant or of other persons interested in the land or that the interests of other persons are unduly prejudiced thereby, cancel the direction or registration in whole or in part, and the applicant, the Director and such other persons as the Tribunal may specify are parties to the proceedings before the Tribunal.

O. Reg. 491/76 validated

3. O. Reg. 491/76 shall be deemed to be valid for all purposes notwithstanding that it or any part of it would, but for this section, be invalid.

Commencement

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. This Act may be cited as *The Travel Industry Amendment Act, 1976*.

BILL 98

An Act to amend
The Travel Industry Act, 1974

1st Reading

June 3rd, 1976

2nd Reading

June 14th, 1976

3rd Reading

June 18th, 1976

THE HON. S. B. HANDLEMAN
Minister of Consumer and
Commercial Relations

1976

Government Publications

BILL 99 **Government Bill**

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

An Act to amend The Corporations Tax Act, 1972

THE HON. A. K. MEEN
Minister of Revenue

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

This Bill raises from $100,000 to $150,000 the amount on which small businesses that are eligible for the small business deduction permitted by section 125 of the *Income Tax Act* (Canada) may compute the 3 per cent reduction in corporations tax permitted by section 106*a* of *The Corporations Tax Act, 1972*, as re-enacted this spring to implement part of the Treasurer's Budget introduced last April. The increase proposed in this Bill is designed to bring *The Corporations Tax Act, 1972* into line with the increase announced by the Minister of Finance for Canada in his Budget proposals of May 25th last. Since the proposed amendment to the *Income Tax Act* (Canada) is not yet in force, the amendment proposed by this Bill will be brought into force when the change to the Federal Act has become law.

BILL 99 **1976**

An Act to amend The Corporations Tax Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

s. 106*a* (2), amended

1. Subsection 2 of section 106*a* of *The Corporations Tax Act, 1972*, being chapter 143, as re-enacted by the Statutes of Ontario, 1976, chapter 32, section 11, is amended by striking out "$100,000" in the fifth line and inserting in lieu thereof "$150,000".

Commencement

2. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor, and, when in force, applies to corporations in respect of all fiscal years ending after the 6th day of April, 1976.

Short title

3. This Act may be cited as *The Corporations Tax Amendment Act, 1976* (*No. 2*).

An Act to amend
The Corporations Tax Act, 1972

1st Reading

June 3rd, 1976

2nd Reading

3rd Reading

The Hon. A. K. Meen
Minister of Revenue

(*Government Bill*)

1976

Ontario. Legislative Assembly

BILL 99

Government Publicati...

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

An Act to amend The Corporations Tax Act, 1972

THE HON. A. K. MEEN
Minister of Revenue

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 99 **1976**

An Act to amend The Corporations Tax Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 106*a* of *The Corporations Tax Act, 1972*, being chapter 143, as re-enacted by the Statutes of Ontario, 1976, chapter 32, section 11, is amended by striking out "$100,000" in the fifth line and inserting in lieu thereof "$150,000". s. 106*a* (2), amended

2. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor, and, when in force, applies to corporations in respect of all fiscal years ending after the 6th day of April, 1976. Commencement

3. This Act may be cited as *The Corporations Tax Amendment Act, 1976* (*No. 2*). Short title

An Act to amend
The Corporations Tax Act, 1972

1st Reading

June 3rd, 1976

2nd Reading

November 2nd, 1976

3rd Reading

November 2nd, 1976

THE HON. A. K. MEEN
Minister of Revenue

1976

BILL 100 **Government Bill**

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications

An Act to amend The Municipal Conflict of Interest Act, 1972

THE HON. R. MCMURTRY
Attorney General



TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

Section 1.—Subsection 1. Subsection 4 of section 1 presently reads as follows:

> (4) *A member of a council or of a local board does not have an indirect pecuniary interest by reason only of his being a director or senior officer of a corporation incorporated for the purpose of carrying on business for and on behalf of the municipality or local board or by reason of his being a member of a board, commission or other body as an appointee of the council or local board.*

The effect of the amendment is to provide that a council member who is a member of a board, commission or other body does not have an indirect pecuniary interest by reason of that fact only, provided he is a member of such board or commission as an appointee of any council.

Subsection 2. Subsection 5 of section 1 presently reads as follows:

> (5) *Where the number of members of a council or of a local board who have an indirect pecuniary interest by reason of the application of clause b of subsection 3 is such that at any meeting the remaining members are not of sufficient number to constitute a quorum, then, notwithstanding any other general or special Act, the remaining number of members shall be deemed to constitute a quorum, provided such number is not less than two.*

Subsection 5 governs the situation where several members of a council may be employees of a person or body with whom the council has dealings; such members are deemed to have an indirect pecuniary interest and may not participate in the proceedings.

Where the number of members so affected is such that the remainder of council does not constitute a quorum, the subsection provides that the remaining number of members, provided it is not less than two, are deemed to constitute a quorum.

The new subsections 5*a* and 5*b* will permit a council, in a case where all, or all but one, of the members of council are employees of a person or body to apply to a judge for an order permitting the council to deal with such employer in any specific matter coming before the council as though the indirect pecuniary interest did not exist.

BILL 100 **1976**

An Act to amend The Municipal Conflict of Interest Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 4 of section 1 of *The Municipal Conflict of Interest Act, 1972*, being chapter 142, is repealed and the following substituted therefor: s. 1 (4), re-enacted

(4) A member of a council or of a local board does not have an indirect pecuniary interest by reason only of his being a director or senior officer of a corporation incorporated for the purpose of carrying on business for and on behalf of the municipality or local board or by reason of his being a member of a board, commission or other body as an appointee of a council or local board. Idem

(2) The said section 1 is amended by adding thereto the following subsections: s. 1, amended

(5*a*) Where, in the circumstances mentioned in subsection 5, the remaining number of members of council who do not have an indirect pecuniary interest is less than two, the council may apply to a judge for an order authorizing the council to give consideration to, discuss and vote on the contract, proposed contract or other matter out of which the indirect pecuniary interest arises. Application to judge

(5*b*) The judge may, on an application brought under subsection 5*a*, by order, declare that this Act does not apply to the council in respect of the contract, proposed contract or other matter in relation to which the application is brought, and the council thereupon may give consideration to, discuss and vote on the contract, proposed contract or other matter in the same manner as though none of the members of council had any indirect pecuniary interest therein. Power of judge to declare Act not to apply

s. 5 (2), re-enacted

2. Subsection 2 of section 5 of the said Act is repealed and the following substituted therefor:

Saving

(2) Where the judge determines that a member of council or of a local board has contravened subsection 1 or 2 of section 2, if the judge finds that the contravention was committed through inadvertance or by reason of a *bona fide* error in judgment or that the interest of the member is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the member, the member is not subject to having his seat declared vacant or to being disqualified as a member, as provided by subsection 1.

Commencement

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. This Act may be cited as *The Municipal Conflict of Interest Amendment Act, 1976*.

SECTION 2. Subsection 2 of section 5 presently reads as follows:

(2) *Where the judge determines that a member of council or of a local board has contravened subsection 1 or 2 of section 2, if the judge finds that the contravention was committed through inadvertance or by reason of a bona fide error in judgment, the member is not subject to having his seat declared vacant or to being disqualified as a member, as provided by subsection 1.*

The amendment permits a judge to relieve a council member of the penalties imposed by the Act where he finds that the interest of a member who failed to disclose it was so remote or insignificant as not reasonably to be likely to influence the member in his consideration or voting on the subject-matter.

An Act to amend
The Municipal Conflict of
Interest Act, 1972

1st Reading

June 7th, 1976

2nd Reading

3rd Reading

THE HON. R. MCMURTRY
Attorney General

(*Government Bill*)

1976

BILL 100

3rd Session, 30th Legislature, Ontario
25 Elizabeth II, 1976

Government
Publications

An Act to amend
The Municipal Conflict of Interest Act, 1972

The Hon. R. McMurtry
Attorney General

TORONTO
Printed by J. C. Thatcher, Queen's Printer for Ontario

BILL 100 **1976**

An Act to amend The Municipal Conflict of Interest Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 4 of section 1 of *The Municipal Conflict of Interest Act, 1972*, being chapter 142, is repealed and the following substituted therefor: s. 1 (4), re-enacted

(4) A member of a council or of a local board does not have an indirect pecuniary interest by reason only of his being a director or senior officer of a corporation incorporated for the purpose of carrying on business for and on behalf of the municipality or local board or by reason of his being a member of a board, commission or other body as an appointee of a council or local board. Idem

(2) The said section 1 is amended by adding thereto the following subsections: s. 1, amended

(5*a*) Where, in the circumstances mentioned in subsection 5, the remaining number of members of council who do not have an indirect pecuniary interest is less than two, the council may apply to a judge for an order authorizing the council to give consideration to, discuss and vote on the contract, proposed contract or other matter out of which the indirect pecuniary interest arises. Application to judge

(5*b*) The judge may, on an application brought under subsection 5*a*, by order, declare that this Act does not apply to the council in respect of the contract, proposed contract or other matter in relation to which the application is brought, and the council thereupon may give consideration to, discuss and vote on the contract, proposed contract or other matter in the same manner as though none of the members of council had any indirect pecuniary interest therein. Power of judge to declare Act not to apply

s. 5 (2), re-enacted

2. Subsection 2 of section 5 of the said Act is repealed and the following substituted therefor:

Saving

(2) Where the judge determines that a member of council or of a local board has contravened subsection 1 or 2 of section 2, if the judge finds that the contravention was committed through inadvertance or by reason of a *bona fide* error in judgment or that the interest of the member is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the member, the member is not subject to having his seat declared vacant or to being disqualified as a member, as provided by subsection 1.

Commencement

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. This Act may be cited as *The Municipal Conflict of Interest Amendment Act, 1976*.

An Act to amend
The Municipal Conflict of
Interest Act, 1972

1st Reading

June 7th, 1976

2nd Reading

June 14th, 1976

3rd Reading

June 21st, 1976

THE HON. R. MCMURTRY
Attorney General

1976

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BILL 101 **Government Bill**

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications
Legislative Assembly

An Act to amend The District Municipality of Muskoka Act

THE HON. W. D. MCKEOUGH
Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs

LEGAL
15/6

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

Section 1. The effect of the amendment is to enlarge from 30 to 60 days the period of time within which the council of the appropriate area municipality must appoint a successor in the event of a vacancy occurring on the District Council. The subsection presently reads as follows:

> (4) *When a vacancy occurs in the office of a member, other than the chairman or the head of the council of an area municipality, the council of the area municipality from which he was elected shall by by-law within thirty days after the vacancy occurs appoint a successor, who is eligible to be elected a member of the District Council, to hold office for the remainder of the term of his predecessor.*

Section 2. The effect of the amendment is to permit a person to act as auditor of the District Corporation despite having rendered any professional services in the preceding year to the District Corporation, an area municipality or a local board thereof. The subsection presently reads as follows:

> (3) *No person shall be appointed as an auditor of the District Corporation who is or during the preceding year was a member of the District Council or of the council of an area municipality or of any local board, the accounts and transactions of which it would as auditor be his duty to audit, or who has or during the preceding year had any direct or indirect interest in any contract with the District Corporation or an area municipality or any such local board, or any employment with any of them other than as an auditor.*

Section 3. Approval under *The Highway Traffic Act* is now no longer required to local municipality traffic by-laws and the amendment deletes the references to such approval; the new subsections added permit the District Council to approve such traffic by-laws in part only and to withdraw any approval previously given. Similar powers were formerly exercised under *The Highway Traffic Act*. The subsection presently reads as follows:

> (1) *No by-law passed by an area municipality for the regulation of traffic on a highway under the jurisdiction and control of the area municipality, except a by-law for the regulation of parking, shall come into force until it has been approved by resolution of the District Council before it is submitted for approval under The Highway Traffic Act.*

Section 4. The effect of the amendment is to require the Liaison Committee to meet at least once every three months rather than at monthly intervals; there is no other change.

BILL 101 **1976**

An Act to amend The District Municipality of Muskoka Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 4 of section 11 of *The District Municipality of Muskoka Act*, being chapter 131 of the Revised Statutes of Ontario, 1970, is amended by striking out "thirty" in the fourth line and inserting in lieu thereof "sixty". s. 11 (4), amended

2. Subsection 3 of section 24 of the said Act is amended by striking out "as an auditor" in the eighth and ninth lines and inserting in lieu thereof "for services within his professional capacity". s. 24 (3), amended

3.—(1) Subsection 1 of section 56 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 52, section 4, is further amended by striking out "before it is submitted for approval under *The Highway Traffic Act*" in the fifth and sixth lines. s. 56 (1), amended

(2) The said section 56 is amended by adding thereto the following subsections: s. 56, amended

(1*a*) A by-law submitted for approval of the District Council in compliance with subsection 1 may be approved in whole or in part and, where part only of a by-law is approved, that part only shall become operative. District Council may approve by-law in whole or in part

(1*b*) The District Council may withdraw its approval to any by-law or any part thereof by notice sent by registered mail to the clerk of the area municipality and such by-law or part thereof shall be deemed to be repealed twenty-one days after the sending of the notice. Withdrawal of approval

4. Section 87 of the said Act is repealed and the following substituted therefor: s. 87, re-enacted

Liaison Committee

87. The District Council shall establish a committee of seven persons consisting of the chairman and one representative from the council of each area municipality to be known as the Muskoka District Police Liaison Committee which shall meet at least once every three months with the representatives of the Ontario Provincial Police to discuss police matters within the District Area.

s. 101 (1) (*b*), re-enacted

5. Clause *b* of subsection 1 of section 101 of the said Act is repealed and the following substituted therefor:

(*b*) "urban service" means,

(i) land drainage,

(ii) the collection and removal of ashes or garbage or other refuse, or

(iii) street lighting.

s. 104 (4, 5), re-enacted

6. Subsections 4 and 5 of section 104 of the said Act are repealed and the following substituted therefor:

Purpose of fund

(4) The moneys in the fund established under subsection 3 may be used only to defray the costs of the District Council in exercising its powers under Part III-A and for pollution control measures undertaken in the District Area, which measures are in addition to the normal pollution control measures being undertaken by the Muskoka-Parry Sound Health Unit.

Cost of District Council under Part III-A

(5) None of the costs of the District Council in exercising its powers under Part III-A shall form part of the levy under section 92 except as provided in subsection 4.

s. 105, repealed

7. Section 105 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 119, section 9, is repealed.

s. 110*a*, enacted

8. The said Act is amended by adding thereto the following section:

Temporary borrowing R.S.O. 1970, c. 332

110*a*.—(1) Where the District Corporation has entered into an agreement under *The Ontario Water Resources Act* whereby the District Corporation is entitled to receive moneys from the Crown, the District Council pending the receipt of such moneys may, in order to meet expenditures incurred in carrying out the agreement, agree with a bank or a person for temporary advances from time to time.

SECTION 5. The amendment deletes from the definition of "urban service",

(i) the collection and disposal of sewage, and

(ii) the provision and distribution of an adequate supply of water.

The responsibility for these two matters became a function of the District Corporation on the 1st day of January, 1975, and their inclusion in relation to a service to be provided by an area municipality is not now appropriate.

SECTION 6. The fund referred to in subsection 4 is the pollution control fund the District Council is required to establish and maintain. Those moneys are to be expended by the District Council only to defray its costs in exercising its sewage disposal powers. The amendment changes the reference from Part III of the Act to Part III-A, where such powers are now to be found.

SECTION 7. Section 105 provides for certain sums of money to be paid to the District Corporation out of the Consolidated Revenue Fund in each of the years 1971 to 1975 inclusive, as a form of special provincial assistance. It is repealed as being obsolete.

SECTION 8. The section added permits the District Council, in cases where the District Corporation has entered into an agreement under *The Ontario Water Resources Act*, whereunder moneys will be received by the Corporation from the Crown, to arrange temporary financing pending the receipt of the moneys; the power is analogous to that which is conferred on the District Council pending the issue and sale of debentures that have been approved by the Municipal Board.

SECTION 9. The amendments relate to debentures and provide for the following:

(1) The present requirement that all debentures authorized by the same by-law of the District Council be issued at the same time is deleted.

(2) The investment powers of the District Corporation in respect of sinking fund moneys is expanded. Such moneys will be able to be invested in United States of America securities and such other types of securities as the Lieutenant Governor in Council authorizes. Presently investments of such moneys are limited to the following:

(*a*) in securities in which a trustee may invest under *The Trustee Act*;

(*b*) in debentures of the District Corporation;

(*c*) in temporary advances to the District Corporation pending the issue and sale of any debentures of the District Corporation;

(*d*) in temporary loans to the District Corporation for current expenditures, but no loan for such purpose shall be made for a period ending after the end of the calendar year in which the loan is made.

(3) The District Corporation is given the same power as is conferred on local municipalities under section 291*a* of *The Municipal Act* to issue "term debentures". The retirement fund for the term debentures is to be administered by the sinking fund committee of the District Corporation. All debentures issued by the District Corporation, regardless of the date of issue or the date of maturity are to rank equally.

(2) The proceeds of every advance under this section shall be applied to the expenditures incurred in carrying out the agreement made by the District Corporation under *The Ontario Water Resources Act*, but the lender shall not be bound to see to the application of the proceeds and, when the District Corporation has received the moneys to which it is entitled from the Crown under the said agreement such moneys shall be applied first in repayment of the advances. Application of proceeds R.S.O. 1970, c. 332

9.—(1) Subsection 9 of section 111 of the said Act is amended by striking out "at one time and" in the first line. s. 111 (9), amended

(2) Subsection 30 of the said section 111 is amended by adding thereto the following clauses: s. 111 (30), amended

(*e*) in securities issued or unconditionally guaranteed as to principal and interest by the United States of America;

(*f*) in such other securities as are authorized by the Lieutenant Governor in Council.

(3) The said section 111, as amended by the Statutes of Ontario, 1972, chapter 52, section 10, is further amended by adding thereto the following subsections: s. 111, amended

(42) A money by-law may authorize the issue of debentures of which a portion shall be payable on a fixed date with interest payable annually or semi-annually, in which case such debentures shall be known as term debentures. Term debentures

(43) In respect of the term debentures, the by-law shall provide for raising, Amounts to be raised annually

(*a*) in each year of the currency of the term debentures, a sum sufficient to pay the interest on the term debentures; and

(*b*) in each year of the currency of the term debentures in which no other debentures issued under the same by-law become due and payable, a specific amount to form a retirement fund for the term debentures which, with interest at a rate not to exceed 5 per cent per annum compounded yearly, will be sufficient to pay the principal of the term debentures at maturity.

(44) The retirement fund for the term debentures shall be administered by the sinking fund committee in all Retirement fund administration

respects in the same manner as a sinking fund established under this section, and the provisions of subsections 21 to 41 of this section with respect to a sinking fund shall apply *mutatis mutandis* to such retirement fund.

All debentures to rank equally

(45) Notwithstanding the provisions of any general or special Act or any differences in date of issue or maturity, every debenture issued shall rank concurrently and *pari passu* in respect of payment of principal and interest thereon with all other debentures of the District Corporation except as to the availability of any sinking funds applicable to any particular issue of debentures.

s. 111*a*, enacted

10. The said Act is further amended by adding thereto the following section:

Debentures payable on a fixed date subject to annual redemption by lot of a specified principal amount

111*a*. Notwithstanding any other provision of this Act,

(*a*) a money by-law of the District Council may provide that all or a portion of the debentures to be issued thereunder shall be payable on a fixed date, subject to the obligation of the District Corporation to redeem by lot annually on each anniversary of the date of such debentures a specified principal amount of such debentures upon payment by the District Corporation of such principal amount plus accrued interest to the date of redemption and upon giving notice as provided in this section;

Interest ceases to accrue on date set for redemption

(*b*) the principal amount of every debenture that is called for redemption shall become due and payable on the date set for the redemption thereof and, after such date, interest ceases to accrue thereon where provision is duly made by the District Corporation for the payment of the principal amount thereof;

Debentures to be redeemed may be purchased

(*c*) the debentures to be redeemed on each anniversary of the date of such debentures shall be selected by lot by the treasurer of the District Corporation at a public meeting of the District Council and when redeemed shall be cancelled and shall not be reissued, provided always that the principal amount of the debentures to be redeemed in any year may be reduced by the principal amount of any debentures purchased by the District Corporation, at a price or prices not exceeding the principal amount thereof, and surrendered for cancellation on the date fixed for redemption;

SECTION 10. The effect of the added section is to confer on the District Corporation the same power as is conferred on local municipalities under section 289 of *The Municipal Act* to issue debentures all or a portion of which may be made payable on a fixed date, subject to the obligation of the Corporation to redeem annually, by lot, a certain specified principal amount of the debentures.

SECTION 11. The effect of the amendment is to authorize debentures of the District Corporation to be registered both as to principal and to interest and to provide that where debentures are issued in a currency other than that of Canada the Debenture Registry Book may be maintained outside Canada. Local municipalities have the same authority under section 326 of *The Municipal Act*.

SECTION 12. The broad general granting power conferred on local municipalities under section 248*a* of *The Municipal Act* is given to the District Corporation. Section 248*a* reads as follows:

248a.—(*1*) *Notwithstanding any special provision in this Act or in any other general or special Act, the council of every municipality may, subject to section 248, make grants on such terms and conditions as to security and otherwise as the council may consider expedient to any person, institution, association, group or body of any kind, including a fund, within or outside the boundaries of the municipality for any purpose that, in the opinion of the council, is in the interests of the municipality.*

(*2*) *The power to make a grant includes the power to guarantee a loan and to make a grant by way of loan and to charge interest on such loan.*

(*3*) *A guarantee of loan made under this section shall be deemed to be a debt for the purposes of section 293 and, where the term of the loan in respect of which such guarantee is made may extend beyond the current year, such guarantee shall be deemed to be an act, the cost of which is to be raised in a subsequent year and shall be subject to the provisions of section 64 of The Ontario Municipal Board Act.*

(*4*) *For the purposes of this section, "person" includes a municipal corporation.*

(*d*) notice of intention to redeem any debenture shall be sent by prepaid mail at least thirty days prior to the date set for such redemption to the person, if any, in whose name the debenture may be registered at the address shown in the Debenture Registry Book; Notice to redeem to be sent by mail

(*e*) notice of intention to redeem any debenture shall be published at least thirty days prior to the date set for such redemption in such manner as the by-law may provide; Notice to redeem to be published

(*f*) where only a portion of the debentures issued under a by-law is payable on a fixed date, the obligation of the District Corporation to redeem by lot annually a specified principal amount of such debentures does not apply in any year in which an instalment of principal of the remaining debentures issued under such by-law becomes due and payable; and Where only portion of debentures payable on fixed date

(*g*) the aggregate amounts of principal and interest, or the amounts of principal, payable in each year during the currency of debentures issued under this section shall be approximately equal. Annual amounts payable to be approximately equal

11. Section 119 of the said Act is amended by adding thereto the following subsections: s. 119, amended

(4) A debenture may be registered as to both principal and interest in which case the interest thereon shall be paid by cheque and the debenture may be referred to as a fully registered debenture. Registration of debenture as to principal and interest

(5) Where debentures are payable in a currency other than that of Canada, the District Council may provide that the Debenture Registry Book of the District Corporation in respect of such debentures be maintained outside Canada by a corporation or person other than the treasurer and may make such other provisions for the registration and transfer of such debentures as the District Council considers appropriate. Where Debenture Registry Book may be maintained outside Canada

12. Subsection 1 of section 130 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 119, section 10, is repealed and the following substituted therefor: s. 130 (1), re-enacted

(1) Section 5, Parts XV, XVI, XVII and XXI, sections 248*a*, 249 and 254, subsection 3 of section 308 and paragraphs 3, 10, 11, 12 and 24 of section 352 of *The* Application of R.S.O. 1970, c. 284

Municipal Act apply *mutatis mutandis* to the District Corporation, and for the purposes of section 394 of *The Municipal Act* the District Corporation shall be deemed to be a local municipality.

s. 132, re-enacted

13. Section 132 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 119, section 11, is repealed and the following substituted therefor:

Expenditures for diffusing information

132. The District Corporation may make expenditures for the purpose of diffusing information respecting the advantages of the district municipality as an industrial, business, educational, residential or vacation centre.

s. 133, repealed

14. Section 133 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 119, section 12, is repealed.

Commencement

15. This Act comes into force on the day it receives Royal Assent.

Short title

16. This Act may be cited as *The District Municipality of Muskoka Amendment Act, 1976*.

SECTION 13. The specific authority now possessed by the District Corporation to make annual grants for the purpose of diffusing information is no longer required in the light of the broad general granting power contained in section 248*a* of *The Municipal Act*, now made applicable to the District Corporation. The section is set out below, showing underlined the words to be deleted.

> *132. The District Corporation may make expenditures for the purpose of diffusing information respecting the advantages of the district municipality as an industrial, business, educational, residential or vacation centre and may make annual grants for a period not exceeding five years, and upon the expiration of any such period may make similar grants for a further period not exceeding five years.*

SECTION 14. The specific authority now possessed by the District Council to make grants to persons engaged in works deemed advantageous to the District Area is no longer required in the light of the broad general granting power. The section to be repealed reads as follows:

> *133. The District Council may make annual grants to institutions, associations and persons carrying on or engaged in works that in the opinion of the District Council are for the general advantage of the inhabitants of the District Area.*

An Act to amend
The District Municipality of
Muskoka Act

1st Reading

June 8th, 1976

2nd Reading

3rd Reading

THE HON. W. D. MCKEOUGH
Treasurer of Ontario and Minister of
Economics and Intergovernmental
Affairs

(*Government Bill*)

1976

Government Publications

BILL 101 **Government Bill**

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

An Act to amend The District Municipality of Muskoka Act

THE HON. W. D. MCKEOUGH
Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs

(Reprinted as amended by the Committee of the Whole House)

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

Section 1. The effect of the amendment is to enlarge from 30 to 60 days the period of time within which the council of the appropriate area municipality must appoint a successor in the event of a vacancy occurring on the District Council. The subsection presently reads as follows:

> (4) *When a vacancy occurs in the office of a member, other than the chairman or the head of the council of an area municipality, the council of the area municipality from which he was elected shall by by-law within thirty days after the vacancy occurs appoint a successor, who is eligible to be elected a member of the District Council, to hold office for the remainder of the term of his predecessor.*

Section 2. The effect of the amendment is to permit a person to act as auditor of the District Corporation despite having rendered any professional services in the preceding year to the District Corporation, an area municipality or a local board thereof. The subsection presently reads as follows:

> (3) *No person shall be appointed as an auditor of the District Corporation who is or during the preceding year was a member of the District Council or of the council of an area municipality or of any local board, the accounts and transactions of which it would as auditor be his duty to audit, or who has or during the preceding year had any direct or indirect interest in any contract with the District Corporation or an area municipality or any such local board, or any employment with any of them other than as an auditor.*

Section 3. Approval under *The Highway Traffic Act* is now no longer required to local municipality traffic by-laws and the amendment deletes the references to such approval; the new subsections added permit the District Council to approve such traffic by-laws in part only and to withdraw any approval previously given. Similar powers were formerly exercised under *The Highway Traffic Act*. The subsection presently reads as follows:

> (1) *No by-law passed by an area municipality for the regulation of traffic on a highway under the jurisdiction and control of the area municipality, except a by-law for the regulation of parking, shall come into force until it has been approved by resolution of the District Council before it is submitted for approval under The Highway Traffic Act.*

Section 4. The effect of the amendment is to require the Liaison Committee to meet at least once every three months rather than at monthly intervals; there is no other change.

BILL 101 **1976**

An Act to amend The District Municipality of Muskoka Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 4 of section 11 of *The District Municipality of Muskoka Act*, being chapter 131 of the Revised Statutes of Ontario, 1970, is amended by striking out "thirty" in the fourth line and inserting in lieu thereof "sixty". s. 11 (4), amended

2. Subsection 3 of section 24 of the said Act is amended by striking out "as an auditor" in the eighth and ninth lines and inserting in lieu thereof "for services within his professional capacity". s. 24 (3), amended

3.—(1) Subsection 1 of section 56 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 52, section 4, is further amended by striking out "before it is submitted for approval under *The Highway Traffic Act*" in the fifth and sixth lines. s. 56 (1), amended

(2) The said section 56 is amended by adding thereto the following subsections: s. 56, amended

(1*a*) A by-law submitted for approval of the District Council in compliance with subsection 1 may be approved in whole or in part and, where part only of a by-law is approved, that part only shall become operative. District Council may approve by-law in whole or in part

(1*b*) The District Council may withdraw its approval to any by-law or any part thereof by notice sent by registered mail to the clerk of the area municipality and such by-law or part thereof shall be deemed to be repealed twenty-one days after the sending of the notice. Withdrawal of approval

4. Section 87 of the said Act is repealed and the following substituted therefor: s. 87, re-enacted

Liaison Committee

87. The District Council shall establish a committee of seven persons consisting of the chairman and one representative from the council of each area municipality to be known as the Muskoka District Police Liaison Committee which shall meet at least once every three months with the representatives of the Ontario Provincial Police to discuss police matters within the District Area.

s. 101 (1) (*b*), re-enacted

5. Clause *b* of subsection 1 of section 101 of the said Act is repealed and the following substituted therefor:

(*b*) "urban service" means,

(i) land drainage,

(ii) the collection and removal of ashes or garbage or other refuse, or

(iii) street lighting.

s. 104 (4, 5), re-enacted

6. Subsections 4 and 5 of section 104 of the said Act are repealed and the following substituted therefor:

Purpose of fund

(4) The moneys in the fund established under subsection 3 may be used only to defray the costs of the District Council in exercising its powers under Part III-A and for pollution control measures undertaken in the District Area, which measures are in addition to the normal pollution control measures being undertaken by the Muskoka-Parry Sound Health Unit.

Payment out of fund for waste disposal site

(4*a*) Notwithstanding subsection 4, the District Council may pay out of the fund established under subsection 3 such sum as it considers desirable to an area municipality to defray in whole or in part the expenses of such area municipality in acquiring, establishing and maintaining a site for the purpose of receiving, dumping and disposal of ashes, garbage, refuse and domestic or industrial waste.

Cost of District Council under Part III-A

(5) None of the costs of the District Council in exercising its powers under Part III-A shall form part of the levy under section 92 except as provided in subsection 4.

s. 105, repealed

7. Section 105 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 119, section 9, is repealed.

s. 110*a*, enacted

8. The said Act is amended by adding thereto the following section:

Temporary borrowing R.S.O. 1970, c. 332

110*a*.—(1) Where the District Corporation has entered into an agreement under *The Ontario Water Resources Act* whereby the District Corporation is entitled to receive moneys from the Crown, the District Council pending the receipt of such moneys may, in order to meet expenditures incurred in carrying out the agreement, agree with a

SECTION 5. The amendment deletes from the definition of "urban service",

(i) the collection and disposal of sewage, and

(ii) the provision and distribution of an adequate supply of water.

The responsibility for these two matters became a function of the District Corporation on the 1st day of January, 1975, and their inclusion in relation to a service to be provided by an area municipality is not now appropriate.

SECTION 6. The fund referred to in subsection 4 is the pollution control fund the District Council is required to establish and maintain. Those moneys are to be expended by the District Council only to defray its costs in exercising its sewage disposal powers. The amendment changes the reference from Part III of the Act to Part III-A, where such powers are now to be found.

SECTION 7. Section 105 provides for certain sums of money to be paid to the District Corporation out of the Consolidated Revenue Fund in each of the years 1971 to 1975 inclusive, as a form of special provincial assistance. It is repealed as being obsolete.

SECTION 8. The section added permits the District Council, in cases where the District Corporation has entered into an agreement under *The Ontario Water Resources Act*, whereunder moneys will be received by the Corporation from the Crown, to arrange temporary financing pending the receipt of the moneys; the power is analogous to that which is conferred on the District Council pending the issue and sale of debentures that have been approved by the Municipal Board.

SECTION 9. The amendments relate to debentures and provide for the following:

(1) The present requirement that all debentures authorized by the same by-law of the District Council be issued at the same time is deleted.

(2) The investment powers of the District Corporation in respect of sinking fund moneys is expanded. Such moneys will be able to be invested in United States of America securities and such other types of securities as the Lieutenant Governor in Council authorizes. Presently investments of such moneys are limited to the following:

(*a*) in securities in which a trustee may invest under *The Trustee Act*;

(*b*) in debentures of the District Corporation;

(*c*) in temporary advances to the District Corporation pending the issue and sale of any debentures of the District Corporation;

(*d*) in temporary loans to the District Corporation for current expenditures, but no loan for such purpose shall be made for a period ending after the end of the calendar year in which the loan is made.

(3) The District Corporation is given the same power as is conferred on local municipalities under section 291*a* of *The Municipal Act* to issue "term debentures". The retirement fund for the term debentures is to be administered by the sinking fund committee of the District Corporation. All debentures issued by the District Corporation, regardless of the date of issue or the date of maturity are to rank equally.

bank or a person for temporary advances from time to time.

Application of proceeds

(2) The proceeds of every advance under this section shall be applied to the expenditures incurred in carrying out the agreement made by the District Corporation under *The Ontario Water Resources Act*, but the lender shall not be bound to see to the application of the proceeds and, when the District Corporation has received the moneys to which it is entitled from the Crown under the said agreement such moneys shall be applied first in repayment of the advances.

R.S.O. 1970, c. 332

s. 111 (9), amended

9.—(1) Subsection 9 of section 111 of the said Act is amended by striking out "at one time and" in the first line.

s. 111 (30), amended

(2) Subsection 30 of the said section 111 is amended by adding thereto the following clauses:

(*e*) in securities issued or unconditionally guaranteed as to principal and interest by the United States of America;

(*f*) in such other securities as are authorized by the Lieutenant Governor in Council.

s. 111, amended

(3) The said section 111, as amended by the Statutes of Ontario, 1972, chapter 52, section 10, is further amended by adding thereto the following subsections:

Term debentures

(42) A money by-law may authorize the issue of debentures of which a portion shall be payable on a fixed date with interest payable annually or semi-annually, in which case such debentures shall be known as term debentures.

Amounts to be raised annually

(43) In respect of the term debentures, the by-law shall provide for raising,

(*a*) in each year of the currency of the term debentures, a sum sufficient to pay the interest on the term debentures; and

(*b*) in each year of the currency of the term debentures in which no other debentures issued under the same by-law become due and payable, a specific amount to form a retirement fund for the term debentures which, with interest at a rate not to exceed 5 per cent per annum compounded yearly, will be sufficient to pay the principal of the term debentures at maturity.

Retirement fund administration

(44) The retirement fund for the term debentures shall be administered by the sinking fund committee in all

respects in the same manner as a sinking fund established under this section, and the provisions of subsections 21 to 41 of this section with respect to a sinking fund shall apply *mutatis mutandis* to such retirement fund.

All debentures to rank equally

(45) Notwithstanding the provisions of any general or special Act or any differences in date of issue or maturity, every debenture issued shall rank concurrently and *pari passu* in respect of payment of principal and interest thereon with all other debentures of the District Corporation except as to the availability of any sinking funds applicable to any particular issue of debentures.

s. 111*a*, enacted

10. The said Act is further amended by adding thereto the following section:

Debentures payable on a fixed date subject to annual redemption by lot of a specified principal amount

111*a*. Notwithstanding any other provision of this Act,

(*a*) a money by-law of the District Council may provide that all or a portion of the debentures to be issued thereunder shall be payable on a fixed date, subject to the obligation of the District Corporation to redeem by lot annually on each anniversary of the date of such debentures a specified principal amount of such debentures upon payment by the District Corporation of such principal amount plus accrued interest to the date of redemption and upon giving notice as provided in this section;

Interest ceases to accrue on date set for redemption

(*b*) the principal amount of every debenture that is called for redemption shall become due and payable on the date set for the redemption thereof and, after such date, interest ceases to accrue thereon where provision is duly made by the District Corporation for the payment of the principal amount thereof;

Debentures to be redeemed may be purchased

(*c*) the debentures to be redeemed on each anniversary of the date of such debentures shall be selected by lot by the treasurer of the District Corporation at a public meeting of the District Council and when redeemed shall be cancelled and shall not be reissued, provided always that the principal amount of the debentures to be redeemed in any year may be reduced by the principal amount of any debentures purchased by the District Corporation, at a price or prices not exceeding the principal amount thereof, and surrendered for cancellation on the date fixed for redemption;

SECTION 10. The effect of the added section is to confer on the District Corporation the same power as is conferred on local municipalities under section 289 of *The Municipal Act* to issue debentures all or a portion of which may be made payable on a fixed date, subject to the obligation of the Corporation to redeem annually, by lot, a certain specified principal amount of the debentures.

SECTION 11. The effect of the amendment is to authorize debentures of the District Corporation to be registered both as to principal and to interest and to provide that where debentures are issued in a currency other than that of Canada the Debenture Registry Book may be maintained outside Canada. Local municipalities have the same authority under section 326 of *The Municipal Act*.

SECTION 12. The broad general granting power conferred on local municipalities under section 248*a* of *The Municipal Act* is given to the District Corporation. Section 248*a* reads as follows:

248a.—*(1) Notwithstanding any special provision in this Act or in any other general or special Act, the council of every municipality may, subject to section 248, make grants on such terms and conditions as to security and otherwise as the council may consider expedient to any person, institution, association, group or body of any kind, including a fund, within or outside the boundaries of the municipality for any purpose that, in the opinion of the council, is in the interests of the municipality.*

(2) The power to make a grant includes the power to guarantee a loan and to make a grant by way of loan and to charge interest on such loan.

(3) A guarantee of loan made under this section shall be deemed to be a debt for the purposes of section 293 and, where the term of the loan in respect of which such guarantee is made may extend beyond the current year, such guarantee shall be deemed to be an act, the cost of which is to be raised in a subsequent year and shall be subject to the provisions of section 64 of The Ontario Municipal Board Act.

(4) For the purposes of this section, "person" includes a municipal corporation.

(*d*) notice of intention to redeem any debenture shall be sent by prepaid mail at least thirty days prior to the date set for such redemption to the person, if any, in whose name the debenture may be registered at the address shown in the Debenture Registry Book; Notice to redeem to be sent by mail

(*e*) notice of intention to redeem any debenture shall be published at least thirty days prior to the date set for such redemption in such manner as the by-law may provide; Notice to redeem to be published

(*f*) where only a portion of the debentures issued under a by-law is payable on a fixed date, the obligation of the District Corporation to redeem by lot annually a specified principal amount of such debentures does not apply in any year in which an instalment of principal of the remaining debentures issued under such by-law becomes due and payable; and Where only portion of debentures payable on fixed date

(*g*) the aggregate amounts of principal and interest, or the amounts of principal, payable in each year during the currency of debentures issued under this section shall be approximately equal. Annual amounts payable to be approximately equal

11. Section 119 of the said Act is amended by adding thereto the following subsections: s. 119, amended

(4) A debenture may be registered as to both principal and interest in which case the interest thereon shall be paid by cheque and the debenture may be referred to as a fully registered debenture. Registration of debenture as to principal and interest

(5) Where debentures are payable in a currency other than that of Canada, the District Council may provide that the Debenture Registry Book of the District Corporation in respect of such debentures be maintained outside Canada by a corporation or person other than the treasurer and may make such other provisions for the registration and transfer of such debentures as the District Council considers appropriate. Where Debenture Registry Book may be maintained outside Canada

12. Subsection 1 of section 130 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 119, section 10, is repealed and the following substituted therefor: s. 130 (1), re-enacted

(1) Section 5, Parts XV, XVI, XVII and XXI, sections 248*a*, 249 and 254, subsection 3 of section 308 and paragraphs 3, 10, 11, 12 and 24 of section 352 of *The* Application of R.S.O. 1970, c. 284

Municipal Act apply *mutatis mutandis* to the District Corporation, and for the purposes of section 394 of *The Municipal Act* the District Corporation shall be deemed to be a local municipality.

s. 132, re-enacted

13. Section 132 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 119, section 11, is repealed and the following substituted therefor:

Expenditures for diffusing information

132. The District Corporation may make expenditures for the purpose of diffusing information respecting the advantages of the district municipality as an industrial, business, educational, residential or vacation centre.

s. 133, repealed

14. Section 133 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 119, section 12, is repealed.

Commencement

15. This Act comes into force on the day it receives Royal Assent.

Short title

16. This Act may be cited as *The District Municipality of Muskoka Amendment Act, 1976*.

SECTION 13. The specific authority now possessed by the District Corporation to make annual grants for the purpose of diffusing information is no longer required in the light of the broad general granting power contained in section 248*a* of *The Municipal Act*, now made applicable to the District Corporation. The section is set out below, showing underlined the words to be deleted.

132. The District Corporation may make expenditures for the purpose of diffusing information respecting the advantages of the district municipality as an industrial, business, educational, residential or vacation centre and may make annual grants for a period not exceeding five years, and upon the expiration of any such period may make similar grants for a further period not exceeding five years.

SECTION 14. The specific authority now possessed by the District Council to make grants to persons engaged in works deemed advantageous to the District Area is no longer required in the light of the broad general granting power. The section to be repealed reads as follows:

133. The District Council may make annual grants to institutions, associations and persons carrying on or engaged in works that in the opinion of the District Council are for the general advantage of the inhabitants of the District Area.

BILL 101 **1976**

An Act to amend The District Municipality of Muskoka Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 4 of section 11 of *The District Municipality of Muskoka Act*, being chapter 131 of the Revised Statutes of Ontario, 1970, is amended by striking out "thirty" in the fourth line and inserting in lieu thereof "sixty". s. 11 (4), amended

2. Subsection 3 of section 24 of the said Act is amended by striking out "as an auditor" in the eighth and ninth lines and inserting in lieu thereof "for services within his professional capacity". s. 24 (3), amended

3.—(1) Subsection 1 of section 56 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 52, section 4, is further amended by striking out "before it is submitted for approval under *The Highway Traffic Act*" in the fifth and sixth lines. s. 56 (1), amended

(2) The said section 56 is amended by adding thereto the following subsections: s. 56, amended

(1*a*) A by-law submitted for approval of the District Council in compliance with subsection 1 may be approved in whole or in part and, where part only of a by-law is approved, that part only shall become operative. District Council may approve by-law in whole or in part

(1*b*) The District Council may withdraw its approval to any by-law or any part thereof by notice sent by registered mail to the clerk of the area municipality and such by-law or part thereof shall be deemed to be repealed twenty-one days after the sending of the notice. Withdrawal of approval

4. Section 87 of the said Act is repealed and the following substituted therefor: s. 87, re-enacted

Liaison Committee

87. The District Council shall establish a committee of seven persons consisting of the chairman and one representative from the council of each area municipality to be known as the Muskoka District Police Liaison Committee which shall meet at least once every three months with the representatives of the Ontario Provincial Police to discuss police matters within the District Area.

s. 101 (1) (*b*), re-enacted

5. Clause *b* of subsection 1 of section 101 of the said Act is repealed and the following substituted therefor:

(*b*) "urban service" means,

(i) land drainage,

(ii) the collection and removal of ashes or garbage or other refuse, or

(iii) street lighting.

s. 104 (4, 5), re-enacted

6. Subsections 4 and 5 of section 104 of the said Act are repealed and the following substituted therefor:

Purpose of fund

(4) The moneys in the fund established under subsection 3 may be used only to defray the costs of the District Council in exercising its powers under Part III-A and for pollution control measures undertaken in the District Area, which measures are in addition to the normal pollution control measures being undertaken by the Muskoka-Parry Sound Health Unit.

Payment out of fund for waste disposal site

(4*a*) Notwithstanding subsection 4, the District Council may pay out of the fund established under subsection 3 such sum as it considers desirable to an area municipality to defray in whole or in part the expenses of such area municipality in acquiring, establishing and maintaining a site for the purpose of receiving, dumping and disposal of ashes, garbage, refuse and domestic or industrial waste.

Cost of District Council under Part III-A

(5) None of the costs of the District Council in exercising its powers under Part III-A shall form part of the levy under section 92 except as provided in subsection 4.

s. 105, repealed

7. Section 105 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 119, section 9, is repealed.

s. 110*a*, enacted

8. The said Act is amended by adding thereto the following section:

Temporary borrowing R.S.O. 1970, c. 332

110*a*.—(1) Where the District Corporation has entered into an agreement under *The Ontario Water Resources Act* whereby the District Corporation is entitled to receive moneys from the Crown, the District Council pending the receipt of such moneys may, in order to meet expenditures incurred in carrying out the agreement, agree with a

bank or a person for temporary advances from time to time.

Application of proceeds

(2) The proceeds of every advance under this section shall be applied to the expenditures incurred in carrying out the agreement made by the District Corporation under *The Ontario Water Resources Act*, but the lender shall not be bound to see to the application of the proceeds and, when the District Corporation has received the moneys to which it is entitled from the Crown under the said agreement such moneys shall be applied first in repayment of the advances.

R.S.O. 1970, c. 332

s. 111 (9), amended

9.—(1) Subsection 9 of section 111 of the said Act is amended by striking out "at one time and" in the first line.

s. 111 (30), amended

(2) Subsection 30 of the said section 111 is amended by adding thereto the following clauses:

(*e*) in securities issued or unconditionally guaranteed as to principal and interest by the United States of America;

(*f*) in such other securities as are authorized by the Lieutenant Governor in Council.

s. 111, amended

(3) The said section 111, as amended by the Statutes of Ontario, 1972, chapter 52, section 10, is further amended by adding thereto the following subsections:

Term debentures

(42) A money by-law may authorize the issue of debentures of which a portion shall be payable on a fixed date with interest payable annually or semi-annually, in which case such debentures shall be known as term debentures.

Amounts to be raised annually

(43) In respect of the term debentures, the by-law shall provide for raising,

(*a*) in each year of the currency of the term debentures, a sum sufficient to pay the interest on the term debentures; and

(*b*) in each year of the currency of the term debentures in which no other debentures issued under the same by-law become due and payable, a specific amount to form a retirement fund for the term debentures which, with interest at a rate not to exceed 5 per cent per annum compounded yearly, will be sufficient to pay the principal of the term debentures at maturity.

Retirement fund administration

(44) The retirement fund for the term debentures shall be administered by the sinking fund committee in all

respects in the same manner as a sinking fund established under this section, and the provisions of subsections 21 to 41 of this section with respect to a sinking fund shall apply *mutatis mutandis* to such retirement fund.

All debentures to rank equally

(45) Notwithstanding the provisions of any general or special Act or any differences in date of issue or maturity, every debenture issued shall rank concurrently and *pari passu* in respect of payment of principal and interest thereon with all other debentures of the District Corporation except as to the availability of any sinking funds applicable to any particular issue of debentures.

s. 111*a*, enacted

10. The said Act is further amended by adding thereto the following section:

Debentures payable on a fixed date subject to annual redemption by lot of a specified principal amount

111*a*. Notwithstanding any other provision of this Act,

(*a*) a money by-law of the District Council may provide that all or a portion of the debentures to be issued thereunder shall be payable on a fixed date, subject to the obligation of the District Corporation to redeem by lot annually on each anniversary of the date of such debentures a specified principal amount of such debentures upon payment by the District Corporation of such principal amount plus accrued interest to the date of redemption and upon giving notice as provided in this section;

Interest ceases to accrue on date set for redemption

(*b*) the principal amount of every debenture that is called for redemption shall become due and payable on the date set for the redemption thereof and, after such date, interest ceases to accrue thereon where provision is duly made by the District Corporation for the payment of the principal amount thereof;

Debentures to be redeemed may be purchased

(*c*) the debentures to be redeemed on each anniversary of the date of such debentures shall be selected by lot by the treasurer of the District Corporation at a public meeting of the District Council and when redeemed shall be cancelled and shall not be reissued, provided always that the principal amount of the debentures to be redeemed in any year may be reduced by the principal amount of any debentures purchased by the District Corporation, at a price or prices not exceeding the principal amount thereof, and surrendered for cancellation on the date fixed for redemption;

(*d*) notice of intention to redeem any debenture shall be sent by prepaid mail at least thirty days prior to the date set for such redemption to the person, if any, in whose name the debenture may be registered at the address shown in the Debenture Registry Book; Notice to redeem to be sent by mail

(*e*) notice of intention to redeem any debenture shall be published at least thirty days prior to the date set for such redemption in such manner as the by-law may provide; Notice to redeem to be published

(*f*) where only a portion of the debentures issued under a by-law is payable on a fixed date, the obligation of the District Corporation to redeem by lot annually a specified principal amount of such debentures does not apply in any year in which an instalment of principal of the remaining debentures issued under such by-law becomes due and payable; and Where only portion of debentures payable on fixed date

(*g*) the aggregate amounts of principal and interest, or the amounts of principal, payable in each year during the currency of debentures issued under this section shall be approximately equal. Annual amounts payable to be approximately equal

11. Section 119 of the said Act is amended by adding thereto the following subsections: s. 119, amended

(4) A debenture may be registered as to both principal and interest in which case the interest thereon shall be paid by cheque and the debenture may be referred to as a fully registered debenture. Registration of debenture as to principal and interest

(5) Where debentures are payable in a currency other than that of Canada, the District Council may provide that the Debenture Registry Book of the District Corporation in respect of such debentures be maintained outside Canada by a corporation or person other than the treasurer and may make such other provisions for the registration and transfer of such debentures as the District Council considers appropriate. Where Debenture Registry Book may be maintained outside Canada

12. Subsection 1 of section 130 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 119, section 10, is repealed and the following substituted therefor: s. 130 (1), re-enacted

(1) Section 5, Parts XV, XVI, XVII and XXI, sections 248*a*, 249 and 254, subsection 3 of section 308 and paragraphs 3, 10, 11, 12 and 24 of section 352 of *The* Application of R.S.O. 1970, c. 284

Municipal Act apply *mutatis mutandis* to the District Corporation, and for the purposes of section 394 of *The Municipal Act* the District Corporation shall be deemed to be a local municipality.

s. 132, re-enacted

13. Section 132 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 119, section 11, is repealed and the following substituted therefor:

Expenditures for diffusing information

132. The District Corporation may make expenditures for the purpose of diffusing information respecting the advantages of the district municipality as an industrial, business, educational, residential or vacation centre.

s. 133, repealed

14. Section 133 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 119, section 12, is repealed.

Commencement

15. This Act comes into force on the day it receives Royal Assent.

Short title

16. This Act may be cited as *The District Municipality of Muskoka Amendment Act, 1976*.

An Act to amend
The District Municipality of
Muskoka Act

1st Reading

June 8th, 1976

2nd Reading

June 14th, 1976

3rd Reading

June 21st, 1976

THE HON. W. D. MCKEOUGH
Treasurer of Ontario and Minister of
Economics and Intergovernmental
Affairs

1976

B
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BILL 102 **Government Bill**

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications

An Act to repeal The Municipal Subsidies Adjustment Act

THE HON. W. D. MCKEOUGH
Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The Act is repealed effective the 1st day of January, 1976. Municipalities that have, before that date, qualified for the payment of adjusted grants by reason of an annexation or amalgamation will continue to receive such grants during the period over which they are payable, despite the repeal. At the option of the Minister of Transportation and Communications or of the Treasurer of Ontario, depending on the nature of the entitlement to the adjusted grants, the obligation that is due over a period of years may be discharged by way of a lump sum payment.

BILL 102 **1976**

An Act to repeal The Municipal Subsidies Adjustment Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) *The Municipal Subsidies Adjustment Act*, being chapter 291 of the Revised Statutes of Ontario, 1970, is repealed. Act, repealed

(2) Notwithstanding subsection 1, where any municipality has qualified for the payment of an adjusted grant or grants under the said Act prior to the day on which this Act comes into force, sections 1, 3 and 4 of the said Act continue to apply in respect of the payment of such adjusted grants and the total amount of adjusted grants payable to any municipality may, where the appropriate Minister considers it desirable, be paid in a lump sum. Application to existing adjusted grants

2. This Act shall be deemed to have come into force on the 1st day of January, 1976. Commencement

3. This Act may be cited as *The Municipal Subsidies Adjustment Repeal Act, 1976*. Short title

An Act to repeal
The Municipal Subsidies
Adjustment Act

1st Reading

June 8th, 1976

2nd Reading

3rd Reading

THE HON. W. D. MCKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(*Government Bill*)

1976

BILL 102

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

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An Act to repeal The Municipal Subsidies Adjustment Act

THE HON. W. D. MCKEOUGH
Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 102 **1976**

An Act to repeal The Municipal Subsidies Adjustment Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) *The Municipal Subsidies Adjustment Act*, being chapter 291 of the Revised Statutes of Ontario, 1970, is repealed. Act, repealed

(2) Notwithstanding subsection 1, where any municipality has qualified for the payment of an adjusted grant or grants under the said Act prior to the day on which this Act comes into force, sections 1, 3 and 4 of the said Act continue to apply in respect of the payment of such adjusted grants and the total amount of adjusted grants payable to any municipality may, where the appropriate Minister considers it desirable, be paid in a lump sum. Application to existing adjusted grants

2. This Act shall be deemed to have come into force on the 1st day of January, 1976. Commencement

3. This Act may be cited as *The Municipal Subsidies Adjustment Repeal Act, 1976*. Short title

An Act to repeal
The Municipal Subsidies
Adjustment Act

1st Reading

June 8th, 1976

2nd Reading

June 14th, 1976

3rd Reading

June 14th, 1976

THE HON. W. D. MCKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

1976

BILL 103 Private Member's Bill

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications

An Act to amend The Employment Standards Act, 1974

MR. BOUNSALL

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The purpose of the Bill is to reduce the work week from forty-eight hours to forty hours and to require employers to pay overtime for work done in excess of forty hours per week rather than forty-four hours.

The Bill also ensures that persons employed in the growing of flowers for the retail and wholesale trade and persons performing homework will be included in these provisions under sections 17 and 25.

BILL 103 **1976**

An Act to amend The Employment Standards Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 17 of *The Employment Standards Act, 1974*, being chapter 112, is repealed and the following substituted therefor: s. 17, re-enacted

17. Except as otherwise provided in this Part, and subject to any schedule in force under *The Industrial Standards Act*, the hours of work of an employee shall not exceed eight in the day and forty in the week. Maximum working hours R.S.O. 1970, c. 221

2. Subsection 1 of section 25 of the said Act is repealed and the following substituted therefor: s. 25 (1), re-enacted

(1) Except as otherwise provided in the regulations, where an employee works for an employer in excess of forty hours in any week, he shall be paid for each hour worked in excess of forty hours overtime pay at an amount not less than one and one-half times the regular rate of the employee. Overtime pay

3. The said Act is amended by adding thereto the following section: s. 25*a*, enacted

25*a*. Notwithstanding anything in this Act or the regulations to the contrary, for the purposes of sections 17 and 25, employee shall be deemed to include a person, Interpretation

(*a*) employed in the growing of flowers for the retail and wholesale trade; and

(*b*) performing homework.

4. This Act comes into force on the day it receives Royal Assent. Commencement

5. This Act may be cited as *The Employment Standards Amendment Act, 1976*. Short title

An Act to amend The Employment Standards Act, 1974

1st Reading

June 8th, 1976

2nd Reading

3rd Reading

MR. BOUNSALL

(*Private Member's Bill*)

1976

B
56

BILL 104 **Government Bill**

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications

An Act to amend The Provincial Parks Act

THE HON. L. BERNIER
Minister of Natural Resources

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

Section 1. The present definition section (section 1) of the Act is updated and enlarged. The new definitions are in clauses *a*, *b*, *c*, *e* and *i*.

BILL 104 **1976**

An Act to amend The Provincial Parks Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Provincial Parks Act*, being chapter 371 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 1, re-enacted

1. In this Act, Interpretation

(*a*) "assistant superintendent" means a person who is designated by the Minister as an assistant superintendent for the purposes of this Act and the regulations;

(*b*) "conservation officer" means a conservation officer appointed under *The Game and Fish Act*; R.S.O. 1970, c. 186

(*c*) "master plan" means a program and policy, or any part thereof, prepared from time to time in respect of a provincial park or proposed provincial park and includes the maps, texts and other material describing such program and policy;

(*d*) "Minister" means the Minister of Natural Resources;

(*e*) "park warden" means a person who is designated by the Minister as a park warden for the purposes of this Act and the regulations;

(*f*) "provincial park" includes provincial camp grounds, provincial picnic grounds and provincial camp and picnic grounds;

(*g*) "public lands" means lands belonging to Her Majesty in right of Ontario, whether or not covered with water;

(*h*) "regulations" means the regulations made under this Act;

(*i*) "superintendent" means a person who is designated by the Minister as a superintendent to have charge of a provincial park.

s. 7*a*, enacted

2. The said Act is amended by adding thereto the following section:

Master plan

7*a*.—(1) The Minister may prepare a master plan in respect of any provincial park or proposed provincial park.

Idem

(2) The Minister may review a master plan from time to time and make amendments thereto.

s. 12, re-enacted

3. Section 12 of the said Act is repealed and the following substituted therefor:

Powers of superintendent, etc.

12. In a provincial park, the district manager, superintendent and assistant superintendent and a park warden and conservation officer have all the power and authority of a member of the Ontario Provincial Police Force.

Commencement

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. This Act may be cited as *The Provincial Parks Amendment Act, 1976*.

SECTION 2. The Minister is authorized to prepare master plans for provincial parks and proposed provincial parks and to review and amend such plans.

SECTION 3. Section 12 of the Act at present reads as follows:

12. In a provincial park, the district forester, superintendent or other person in charge and every forest ranger and conservation officer have all the power and authority of a member of the Ontario Provincial Police Force.

The re-enacted section 12 redefines the classes of persons that have such power and authority. A reference to a "district forester" was changed to a reference to a "district manager" by section 15 of *The Ministry of Natural Resources Act, 1972*, chapter 4, as re-enacted by section 5 of the Statutes of Ontario, 1973, chapter 105.

An Act to amend
The Provincial Parks Act

1st Reading

June 8th, 1976

2nd Reading

3rd Reading

The Hon. L. Bernier
Minister of Natural Resources

(*Government Bill*)

1976

B
B56

3rd Session, 30th Legislature, Ontario
25 Elizabeth II, 1976

Government
Publications

An Act to amend The Provincial Parks Act

The Hon. L. Bernier
Minister of Natural Resources

(Reprinted as amended by the Committee of the Whole House)

TORONTO
Printed by J. C. Thatcher, Queen's Printer for Ontario

Explanatory Notes

Section 1. The present definition section (section 1) of the Act is updated and enlarged. The new definitions are in clauses *a*, *b*, *c*, *d*, *f* and *j*.

BILL 104 **1976**

An Act to amend The Provincial Parks Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Provincial Parks Act*, being chapter 371 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 1, re-enacted

1. In this Act, Interpretation

(*a*) "assistant superintendent" means a person who is designated by the Minister as an assistant superintendent for the purposes of this Act and the regulations;

(*b*) "conservation officer" means a conservation officer appointed under *The Game and Fish Act*; R.S.O. 1970, c. 186

(*c*) "district manager" means the person in charge of the administrative district of the Ministry of Natural Resources in which a provincial park is situate;

(*d*) "master plan" means a program and policy, or any part thereof, prepared from time to time in respect of a provincial park or proposed provincial park and includes the maps, texts and other material describing such program and policy;

(*e*) "Minister" means the Minister of Natural Resources;

(*f*) "park warden" means a person who is designated by the Minister as a park warden for the purposes of this Act and the regulations;

(*g*) "provincial park" includes provincial camp grounds, provincial picnic grounds and provincial camp and picnic grounds;

(*h*) "public lands" means lands belonging to Her Majesty in right of Ontario, whether or not covered with water;

(*i*) "regulations" means the regulations made under this Act;

(*j*) "superintendent" means a person who is designated by the Minister as a superintendent to have charge of a provincial park.

s. 7*a*, enacted

2. The said Act is amended by adding thereto the following section:

Master plan

7*a*.—(1) The Minister may prepare a master plan in respect of any provincial park or proposed provincial park.

Idem

(2) The Minister may review a master plan from time to time and make amendments thereto.

s. 12, re-enacted

3. Section 12 of the said Act is repealed and the following substituted therefor:

Powers of superintendent, etc.

12. In a provincial park, the district manager, superintendent and assistant superintendent and a park warden and conservation officer have all the power and authority of a member of the Ontario Provincial Police Force.

"manager" substituted for "forester"

4. The said Act is further amended by striking out "forester" where it occurs and inserting in lieu thereof in each instance "manager".

Commencement

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. This Act may be cited as *The Provincial Parks Amendment Act, 1976*.

SECTION 2. The Minister is authorized to prepare master plans for provincial parks and proposed provincial parks and to review and amend such plans.

SECTION 3. Section 12 of the Act at present reads as follows:

12. In a provincial park, the district forester, superintendent or other person in charge and every forest ranger and conservation officer have all the power and authority of a member of the Ontario Provincial Police Force.

The re-enacted section 12 redefines the classes of persons that have such power and authority. A reference to a "district forester" was changed to a reference to a "district manager" by section 15 of *The Ministry of Natural Resources Act, 1972*, chapter 4, as re-enacted by section 5 of the Statutes of Ontario, 1973, chapter 105.



SECTION 4. The word "forester" is changed throughout the Act to "manager".



An Act to amend
The Provincial Parks Act

1st Reading

June 8th, 1976

2nd Reading

June 14th, 1976

3rd Reading

The Hon. L. Bernier
Minister of Natural Resources

(Reprinted as amended by the Committee of the Whole House)

1976

B 56

BILL 104

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications

An Act to amend The Provincial Parks Act

THE HON. L. BERNIER
Minister of Natural Resources

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 104 **1976**

An Act to amend The Provincial Parks Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Provincial Parks Act*, being chapter 371 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 1, re-enacted

1. In this Act, Interpretation

(*a*) "assistant superintendent" means a person who is designated by the Minister as an assistant superintendent for the purposes of this Act and the regulations;

(*b*) "conservation officer" means a conservation officer appointed under *The Game and Fish Act*; R.S.O. 1970, c. 186

(*c*) "district manager" means the person in charge of the administrative district of the Ministry of Natural Resources in which a provincial park is situate;

(*d*) "master plan" means a program and policy, or any part thereof, prepared from time to time in respect of a provincial park or proposed provincial park and includes the maps, texts and other material describing such program and policy;

(*e*) "Minister" means the Minister of Natural Resources;

(*f*) "park warden" means a person who is designated by the Minister as a park warden for the purposes of this Act and the regulations;

(*g*) "provincial park" includes provincial camp grounds, provincial picnic grounds and provincial camp and picnic grounds;

(*h*) "public lands" means lands belonging to Her Majesty in right of Ontario, whether or not covered with water;

(*i*) "regulations" means the regulations made under this Act;

(*j*) "superintendent" means a person who is designated by the Minister as a superintendent to have charge of a provincial park.

s. 7*a*, enacted

2. The said Act is amended by adding thereto the following section:

Master plan

7*a*.—(1) The Minister may prepare a master plan in respect of any provincial park or proposed provincial park.

Idem

(2) The Minister may review a master plan from time to time and make amendments thereto.

s. 12, re-enacted

3. Section 12 of the said Act is repealed and the following substituted therefor:

Powers of superintendent, etc.

12. In a provincial park, the district manager, superintendent and assistant superintendent and a park warden and conservation officer have all the power and authority of a member of the Ontario Provincial Police Force.

"manager" substituted for "forester"

4. The said Act is further amended by striking out "forester" where it occurs and inserting in lieu thereof in each instance "manager".

Commencement

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. This Act may be cited as *The Provincial Parks Amendment Act, 1976*.

An Act to amend
The Provincial Parks Act

1st Reading

June 8th, 1976

2nd Reading

June 14th, 1976

3rd Reading

June 21st, 1976

THE HON. L. BERNIER
Minister of Natural Resources

1976

56

BILL 105 Government Bill

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications

An Act respecting the Township of North Plantagenet

THE HON. W. D. MCKEOUGH
Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs

UNIVERSITY OF TORONTO

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The Bill authorizes the named municipality to borrow money to the amount mentioned to pay for the cost of certain drainage works undertaken by the municipality pursuant to the provisions of *The Drainage Act*. The normal procedure of application to the Ontario Municipal Board for such authorization is not available to the municipality in this instance by reason of the undertaking having been commenced prior to seeking the Board's approval.

BILL 105 **1976**

An Act respecting the Township of North Plantagenet

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

By-law authorized

1. The council of The Corporation of the Township of North Plantagenet is hereby authorized to pass a by-law, without obtaining the approval of the Ontario Municipal Board, authorizing the borrowing of a sum not exceeding $129,339 payable in not more than five years, for the purpose of paying the cost of certain drainage works which have been completed or are presently under construction within the said township shown in the Schedule hereto.

Application of R.S.O. 1970, c. 323, ss. 55-60

2. Sections 55, 56, 57, 58, 59 and 60 of *The Ontario Municipal Board Act* apply in respect of a by-law passed under section 1.

Order of O.M.B. deemed issued

3. For the purposes of every Act, the Ontario Municipal Board shall be deemed to have issued an order under section 64 of *The Ontario Municipal Board Act* authorizing the construction mentioned in section 1, and authorizing the Corporation to borrow the moneys mentioned in section 1.

Commencement

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. This Act may be cited as *The Township of North Plantagenet Act, 1976*.

SCHEDULE

By-law No.	Drain	Costs to be financed
75-4	J. J. Seguin	$55,520
75-7	2nd Concession	46,279
75-3	Allen Preslye	23,440
75-10	Rejean Leduc	4,100

An Act respecting the
Township of North Plantagenet

1st Reading

June 10th, 1976

2nd Reading

3rd Reading

THE HON. W. D. MCKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(*Government Bill*)

1976

BILL 106 Government Bill

3rd Session, 30th Legislature, Ontario
25 Elizabeth II, 1976

Government Publications

An Act to amend The City of Thunder Bay Act, 1968-69

The Hon. W. D. McKeough
Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs



TORONTO
Printed by J. C. Thatcher, Queen's Printer for Ontario

SECTION 1.—Subsections 1 and 2. Subsections 4 and 5 of section 8 presently read as follows:

(4) *The Hydro-Electric Commission of the City of Fort William is hereby dissolved on the 1st day of January, 1970, and all the assets under the control and management of such Commission and all liabilities of such Commission shall become, on that date, assets under the control and management and liabilities of The Hydro-Electric Commission of The Lakehead without compensation.*

(5) *The Public Utilities Commission of the City of Port Arthur is hereby dissolved on the 1st day of January, 1970, and, in so far as they pertain to the distribution and supply of electrical power and energy, all the assets under the control and management of such Commission and all liabilities of such Commission shall become, on that date, assets under the control and management and liabilities of The Hydro-Electric Commission of The Lakehead without compensation.*

The amendment is merely to make it clear that the liabilities assumed by The Hydro-Electric Commission of Thunder Bay are those incurred in connection with the undertakings controlled by the two former commissions of the cities of Fort William and Port Arthur.

Subsection 3. The new subsection 7 provides that any real property held or registered in the name of the two former commissions or the new Hydro-Electric Commission of Thunder Bay shall be deemed to be vested in the City of Thunder Bay.

The new subsection 8 directs that any real property acquired for the purposes of the Thunder Bay Commission shall be taken in the name of the City of Thunder Bay.

The new subsection 9 provides that certain lands and buildings be removed from the control and management of the Thunder Bay Commission and become assets of the City. Such lands may be sold or leased by the City without obtaining the approval of Ontario Hydro and the proceeds belong absolutely to the City.

The new subsection 10 provides that certain other lands and buildings, when no longer required for the purposes of the Thunder Bay Commission, become assets of the City under the same terms as the land mentioned in subsection 9.

The new subsection 11 provides for the payment of compensation to the Thunder Bay Commission by the City of Thunder Bay.

The new subsection 12 provides for the disposition of any other lands and buildings of the Thunder Bay Commission in the event such lands are no longer required for its purposes.

The new subsection 13 makes applicable the general statutory requirements relating to hydro-electric commissions, except as otherwise provided in this section of the Act.

BILL 106 **1976**

An Act to amend The City of Thunder Bay Act, 1968-69

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 4 of section 8 of *The City of Thunder Bay Act, 1968-69*, being chapter 56, is amended by striking out "of such Commission shall become, on that date, assets under the control and management and liabilities of The Hydro-Electric Commission of The Lakehead without compensation" in the fourth, fifth, sixth and seventh lines and inserting in lieu thereof "incurred in connection with the undertaking controlled and managed by such Commission shall become, on that date, assets under the control and management and liabilities incurred in connection with the undertaking of The Hydro-Electric Commission of Thunder Bay, without compensation". s. 8 (4), amended

(2) Subsection 5 of the said section 8 is amended by striking out "of such Commission shall become, on that date, assets under the control and management and liabilities of The Hydro-Electric Commission of The Lakehead without compensation" in the fifth, sixth, seventh and eighth lines and inserting in lieu thereof "incurred in connection with the undertaking controlled and managed by such Commission shall become, on that date, assets under the control and management of and liabilities incurred in connection with the undertaking of The Hydro-Electric Commission of Thunder Bay, without compensation". s. 8 (5), amended

(3) The said section 8 is amended by adding thereto the following subsections: s. 8, amended

(7) Where any real property is held or registered in the name of The Hydro-Electric Commission of the City of Fort William, The Public Utilities Commission of the City Assets deemed vested

EXPLANATORY NOTES

SECTION 1.—Subsections 1 and 2. Subsections 4 and 5 of section 8 presently read as follows:

(4) *The Hydro-Electric Commission of the City of Fort William is hereby dissolved on the 1st day of January, 1970, and all the assets under the control and management of such Commission and all liabilities of such Commission shall become, on that date, assets under the control and management and liabilities of The Hydro-Electric Commission of The Lakehead without compensation.*

(5) *The Public Utilities Commission of the City of Port Arthur is hereby dissolved on the 1st day of January, 1970, and, in so far as they pertain to the distribution and supply of electrical power and energy, all the assets under the control and management of such Commission and all liabilities of such Commission shall become, on that date, assets under the control and management and liabilities of The Hydro-Electric Commission of The Lakehead without compensation.*

The amendment is merely to make it clear that the liabilities assumed by The Hydro-Electric Commission of Thunder Bay are those incurred in connection with the undertakings controlled by the two former commissions of the cities of Fort William and Port Arthur.

Subsection 3. The new subsection 7 provides that any real property held or registered in the name of the two former commissions or the new Hydro-Electric Commission of Thunder Bay shall be deemed to be vested in the City of Thunder Bay.

The new subsection 8 directs that any real property acquired for the purposes of the Thunder Bay Commission shall be taken in the name of the City of Thunder Bay.

The new subsection 9 provides that certain lands and buildings be removed from the control and management of the Thunder Bay Commission and become assets of the City. Such lands may be sold or leased by the City without obtaining the approval of Ontario Hydro and the proceeds belong absolutely to the City.

The new subsection 10 provides that certain other lands and buildings, when no longer required for the purposes of the Thunder Bay Commission, become assets of the City under the same terms as the land mentioned in subsection 9.

The new subsection 11 provides for the payment of compensation to the Thunder Bay Commission by the City of Thunder Bay.

The new subsection 12 provides for the disposition of any other lands and buildings of the Thunder Bay Commission in the event such lands are no longer required for its purposes.

The new subsection 13 makes applicable the general statutory requirements relating to hydro-electric commissions, except as otherwise provided in this section of the Act.

BILL 106 1976

An Act to amend The City of Thunder Bay Act, 1968-69

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 4 of section 8 of *The City of Thunder Bay Act, 1968-69*, being chapter 56, is amended by striking out "of such Commission shall become, on that date, assets under the control and management and liabilities of The Hydro-Electric Commission of The Lakehead without compensation" in the fourth, fifth, sixth and seventh lines and inserting in lieu thereof "incurred in connection with the undertaking controlled and managed by such Commission shall become, on that date, assets under the control and management and liabilities incurred in connection with the undertaking of The Hydro-Electric Commission of Thunder Bay, without compensation". s. 8 (4), amended

(2) Subsection 5 of the said section 8 is amended by striking out "of such Commission shall become, on that date, assets under the control and management and liabilities of The Hydro-Electric Commission of The Lakehead without compensation" in the fifth, sixth, seventh and eighth lines and inserting in lieu thereof "incurred in connection with the undertaking controlled and managed by such Commission shall become, on that date, assets under the control and management of and liabilities incurred in connection with the undertaking of The Hydro-Electric Commission of Thunder Bay, without compensation". s. 8 (5), amended

(3) The said section 8 is amended by adding thereto the following subsections: s. 8, amended

(7) Where any real property is held or registered in the name of The Hydro-Electric Commission of the City of Fort William, The Public Utilities Commission of the City Assets deemed vested

of Port Arthur or The Hydro-Electric Commission of Thunder Bay, such real property shall be deemed to have vested, as at the date of acquisition thereof, in the corporation of the City by or for which such commission was constituted to the same extent as if the title to such real property had been taken in the name of the corporation of the City at the time of the acquisition of such real property.

Title

(8) Title to all real property acquired and placed under the control and management of The Hydro-Electric Commission of Thunder Bay shall be taken and held in the name of the City.

Lands and premises declared assets of City

(9) The lands and premises set forth in Schedule A hereto are removed from the control and management of The Hydro-Electric Commission of Thunder Bay and are declared to be assets of the City free and clear of any control or management rights of The Hydro-Electric Commission of Thunder Bay, notwithstanding the provisions of any general or special Act, and the City may sell, lease or otherwise dispose of the said lands and premises without the assent of Ontario Hydro and may retain the proceeds of any such sale, lease or disposition as municipal funds.

Idem

(10) The lands and premises described in Schedule B hereto shall, at such time as they are no longer required for the undertaking of The Hydro-Electric Commission of Thunder Bay, as evidenced by a resolution of such Commission, become assets of the City free and clear of any control or management rights of The Hydro-Electric Commission of Thunder Bay and, notwithstanding the provisions of any general or special Act, the City may then sell, lease or otherwise dispose of the said lands and premises without the assent of Ontario Hydro and may retain the proceeds of any such sale, lease or disposition as municipal funds.

Moneys

(11) The City shall place under the control and management of The Hydro-Electric Commission of Thunder Bay the sum of $283,300, of which $5,000 has already been placed under the control and management of such Commission, and the balance of $278,300 shall be payable on the 1st day of July, 1976, with interest thereon from the 1st day of August, 1970, compounded annually at the rate of 8 per cent, which total amount the City shall be entitled to raise by any means it deems appropriate.

Disposition of lands and premises

(12) With the exception of the lands and premises set forth in Schedule A hereto, where The Hydro-Electric Commission of Thunder Bay is of the opinion, and so

SECTION 2. Certain transactions as set out in the section are declared not to be affected by the provisions of the Bill.

SECTION 3. The subsection proposed to be repealed provided for a reference to the Municipal Board in the event of any doubt as to whether any asset of the Public Utilities Commission of Port Arthur is vested in the City of Thunder Bay. The subsection is not now required in the light of the preceding sections of the Bill.

SECTION 4. The Bill is made retroactive in its operation to the day the new City of The Lakehead (now Thunder Bay) was incorporated.

declares by resolution, that any real property under its control and management is not required for the purposes of The Hydro-Electric Commission of Thunder Bay it may be disposed of as follows:

1. In the event that the City wishes to retain such real property for a *bona fide* municipal purpose, it shall compensate The Hydro-Electric Commission of Thunder Bay for such real property at its actual cost, less accrued depreciation as shown on the books of The Hydro-Electric Commission of Thunder Bay, or the assessed value of such real property, whichever is the greater and the City may sell, lease or otherwise dispose of such real property without the assent of Ontario Hydro and may retain the proceeds of any such sale, lease or disposition as municipal funds.

2. In the event that the City does not wish to retain such real property in accordance with paragraph 1, the City shall, as soon as practicable, sell, lease or otherwise dispose of such real property at fair market value and the net proceeds derived from any sale, lease or other disposition of such real property or the compensation paid therefor pursuant to this subsection shall be paid over to The Hydro-Electric Commission of Thunder Bay and shall be applied in accordance with *The Public Utilities Act*. R.S.O. 1970, c. 390

(13) Except as provided in this section, the general provisions of any Act pertaining to a municipal hydro-electric commission shall continue to apply to the City and The Hydro-Electric Commission of Thunder Bay. Application of Acts

2. This Act shall not affect the conveyance by The Hydro-Electric Commission of Thunder Bay to Ontario Hydro dated the 17th day of July, 1975, and registered as Instrument No. 179322 in the Registry Office for the Registry Division of Thunder Bay nor the Lease from Ontario Hydro to The Hydro-Electric Commission of Thunder Bay registered as Instrument No. 182624 in the said Registry Office, nor the Agreement respecting possession of certain lands and premises dated the 28th day of May, 1975, and made between the City and The Hydro-Electric Commission of Thunder Bay. Conveyance, lease and agreement not affected

3. Subsection 3 of section 20 of the said Act is repealed. s. 20 (3), repealed

4. This Act shall be deemed to have come into force on the 1st day of January, 1970. Commencement

5. This Act may be cited as *The City of Thunder Bay Amendment Act, 1976*. Short title

SCHEDULE A

ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the City of Thunder Bay in the District of Thunder Bay in the Province of Ontario and being composed of the following:

FIRSTLY:

The whole of Lots Number Fifty-one (51) and Fifty-two (52) on the West Side of May Street and the South Forty-five and Seventy-eight One-hundredths (45.78′) feet in perpendicular width throughout from front to rear of Lot Number Fifty-three (53), all in the said City, according to a Plan registered in the Registry Office for the Registry Division of Thunder Bay as Number W-123.

SECONDLY:

The South Fifteen (15′) feet from front to rear of Lot Number One Hundred and Eighty-nine (189) in the Wiley Addition in the said City of Thunder Bay according to a Plan filed in the Office of Land Titles at Thunder Bay as Number WM-13, being a portion of Parcel 1448 in the Register for City of Fort William Freehold.

THIRDLY:

The North Eighteen (18′) feet of Lot Number One Hundred and Eighty-nine (189), the whole of Lot Number One Hundred and Ninety (190) and the South twenty-four (24′) feet of Lot Number One Hundred and Ninety-one (191) in the Wiley Addition in the said City of Thunder Bay according to a Plan filed in the Office of Land Titles at Thunder Bay as Number WM-13, being the whole of Parcel 2130 in the Register for City of Fort William Freehold.

FOURTHLY:

The North fifteen and one-half (15½′) feet from front to rear of Lot Number One Hundred and Ninety-one (191) and the whole of Lot Number One Hundred and Ninety-two (192) in the said City of Thunder Bay, according to a Plan filed in the Office of Land Titles at Thunder Bay as Number WM-13, being the whole of Parcel 1449 in the Register for City of Fort William Freehold.

FIFTHLY:

The Easterly forty-eight (48′) feet in the perpendicular width of Lots Numbered One Hundred and Eighty-seven (187) and One Hundred and Eighty-eight (188) in the said City of Thunder Bay, according to a Plan filed in the Office of Land Titles at Thunder Bay as Plan Number WM-13, being a portion of Parcel 1448 in the Register for City of Fort William Freehold.

SCHEDULE B

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the City of Thunder Bay in the District of Thunder Bay in the Province of Ontario and being composed of the whole of Lots Numbered One Hundred and Eighty-seven (187) and One Hundred and Eighty-eight (188) according to a Plan filed in the Office of Land Titles at Thunder Bay as Number WM-13, saving and excepting the Easterly Forty-eight (48′) feet in perpendicular width of the said Lots 187 and 188, being a portion of Parcel 1448 in the Register for City of Fort William Freehold.

An Act to amend
The City of Thunder Bay Act, 1968-69

1st Reading

June 10th, 1976

2nd Reading

3rd Reading

THE HON. W. D. MCKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(*Government Bill*)

1976

-56

BILL 106 **Government Bill**

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications

An Act to amend The City of Thunder Bay Act, 1968-69

THE HON. W. D. MCKEOUGH
Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs

(Reprinted as amended by the Committee of the Whole House)

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

Section 1.—Subsections 1 and 2. Subsections 4 and 5 of section 8 presently read as follows:

(4) *The Hydro-Electric Commission of the City of Fort William is hereby dissolved on the 1st day of January, 1970, and all the assets under the control and management of such Commission and all liabilities of such Commission shall become, on that date, assets under the control and management and liabilities of The Hydro-Electric Commission of The Lakehead without compensation.*

(5) *The Public Utilities Commission of the City of Port Arthur is hereby dissolved on the 1st day of January, 1970, and, in so far as they pertain to the distribution and supply of electrical power and energy, all the assets under the control and management of such Commission and all liabilities of such Commission shall become, on that date, assets under the control and management and liabilities of The Hydro-Electric Commission of The Lakehead without compensation.*

The amendment is merely to make it clear that the liabilities assumed by The Hydro-Electric Commission of Thunder Bay are those incurred in connection with the undertakings controlled by the two former commissions of the cities of Fort William and Port Arthur.

Subsection 3. The new subsection 7 provides that any real property held or registered in the name of the two former commissions or the new Hydro-Electric Commission of Thunder Bay shall be deemed to be vested in the City of Thunder Bay.

The new subsection 8 directs that any real property acquired for the purposes of the Thunder Bay Commission shall be taken in the name of the City of Thunder Bay.

The new subsection 9 provides that certain lands and buildings be removed from the control and management of the Thunder Bay Commission and become assets of the City. Such lands may be sold or leased by the City without obtaining the approval of Ontario Hydro and the proceeds belong absolutely to the City.

The new subsection 10 provides that certain other lands and buildings, when no longer required for the purposes of the Thunder Bay Commission, become assets of the City under the same terms as the land mentioned in subsection 9.

The new subsection 11 provides for the payment of compensation to the Thunder Bay Commission by the City of Thunder Bay.

The new subsection 12 provides for the disposition of any other lands and buildings of the Thunder Bay Commission in the event such lands are no longer required for its purposes.

The new subsection 13 makes applicable the general statutory requirements relating to hydro-electric commissions, except as otherwise provided in this section of the Act.

BILL 106 **1976**

An Act to amend The City of Thunder Bay Act, 1968-69

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 4 of section 8 of *The City of Thunder Bay Act, 1968-69*, being chapter 56, is amended by striking out "of such Commission shall become, on that date, assets under the control and management and liabilities of The Hydro-Electric Commission of The Lakehead without compensation" in the fourth, fifth, sixth and seventh lines and inserting in lieu thereof "incurred in connection with the undertaking controlled and managed by such Commission shall become, on that date, assets under the control and management and liabilities incurred in connection with the undertaking of The Hydro-Electric Commission of Thunder Bay, without compensation". s. 8 (4), amended

(2) Subsection 5 of the said section 8 is amended by striking out "of such Commission shall become, on that date, assets under the control and management and liabilities of The Hydro-Electric Commission of The Lakehead without compensation" in the fifth, sixth, seventh and eighth lines and inserting in lieu thereof "incurred in connection with the undertaking controlled and managed by such Commission shall become, on that date, assets under the control and management of and liabilities incurred in connection with the undertaking of The Hydro-Electric Commission of Thunder Bay, without compensation". s. 8 (5), amended

(3) The said section 8 is amended by adding thereto the following subsections: s. 8, amended

(7) Where any real property is held or registered in the name of The Hydro-Electric Commission of the City of Fort William, The Public Utilities Commission of the City Assets deemed vested

of Port Arthur or The Hydro-Electric Commission of Thunder Bay, such real property shall be deemed to have vested, as at the date of acquisition thereof, in the corporation of the City by or for which such commission was constituted to the same extent as if the title to such real property had been taken in the name of the corporation of the City at the time of the acquisition of such real property.

Title

(8) Title to all real property acquired and placed under the control and management of The Hydro-Electric Commission of Thunder Bay shall be taken and held in the name of the City.

Lands and premises declared assets of City

(9) The lands and premises set forth in Schedule A hereto are removed from the control and management of The Hydro-Electric Commission of Thunder Bay and are declared to be assets of the City free and clear of any control or management rights of The Hydro-Electric Commission of Thunder Bay, notwithstanding the provisions of any general or special Act, and the City may sell, lease or otherwise dispose of the said lands and premises without the assent of Ontario Hydro and may retain the proceeds of any such sale, lease or disposition as municipal funds.

Idem

(10) The lands and premises described in Schedule B hereto shall, at such time as they are no longer required for the undertaking of The Hydro-Electric Commission of Thunder Bay, as evidenced by a resolution of such Commission, become assets of the City free and clear of any control or management rights of The Hydro-Electric Commission of Thunder Bay and, notwithstanding the provisions of any general or special Act, the City may then sell, lease or otherwise dispose of the said lands and premises without the assent of Ontario Hydro and may retain the proceeds of any such sale, lease or disposition as municipal funds.

Moneys

(11) The City shall place under the control and management of The Hydro-Electric Commission of Thunder Bay the sum of $283,300, of which $5,000 has already been placed under the control and management of such Commission, and the balance of $278,300 shall be payable on the 1st day of July, 1976, with interest thereon from the 1st day of August, 1970, compounded annually at the rate of 8 per cent, which total amount the City shall be entitled to raise by any means it deems appropriate.

Disposition of lands and premises

(12) With the exception of the lands and premises set forth in Schedule A hereto, where The Hydro-Electric Commission of Thunder Bay is of the opinion, and so

SECTION 2. Certain transactions as set out in the section are declared not to be affected by the provisions of the Bill.

SECTION 3. The subsection proposed to be repealed provided for a reference to the Municipal Board in the event of any doubt as to whether any asset of the Public Utilities Commission of Port Arthur is vested in the City of Thunder Bay. The subsection is not now required in the light of the preceding sections of the Bill.

SECTION 4. The Bill is made retroactive in its operation to the day the new City of The Lakehead (now Thunder Bay) was incorporated.

declares by resolution, that any real property under its control and management is not required for the purposes of The Hydro-Electric Commission of Thunder Bay unless otherwise agreed upon by the City and the Commission it may be disposed of as follows:

1. In the event that the City wishes to retain such real property for a *bona fide* municipal purpose, it shall compensate The Hydro-Electric Commission of Thunder Bay for such real property at its actual cost, less accrued depreciation as shown on the books of The Hydro-Electric Commission of Thunder Bay, or the assessed value of such real property, whichever is the greater and the City may sell, lease or otherwise dispose of such real property without the assent of Ontario Hydro and may retain the proceeds of any such sale, lease or disposition as municipal funds.

2. In the event that the City does not wish to retain such real property in accordance with paragraph 1, the City shall, as soon as practicable, sell, lease or otherwise dispose of such real property at fair market value and the net proceeds derived from any sale, lease or other disposition of such real property or the compensation paid therefor pursuant to this subsection shall be paid over to The Hydro-Electric Commission of Thunder Bay and shall be applied in accordance with *The Public Utilities Act*. R.S.O. 1970, c. 390

(13) Except as provided in this section, the general provisions of any Act pertaining to a municipal hydro-electric commission shall continue to apply to the City and The Hydro-Electric Commission of Thunder Bay. Application of Acts

2. This Act shall not affect the conveyance by The Hydro-Electric Commission of Thunder Bay to Ontario Hydro dated the 17th day of July, 1975, and registered as Instrument No. 179322 in the Registry Office for the Registry Division of Thunder Bay nor the Lease from Ontario Hydro to The Hydro-Electric Commission of Thunder Bay registered as Instrument No. 182624 in the said Registry Office, nor the Agreement respecting possession of certain lands and premises dated the 28th day of May, 1975, and made between the City and The Hydro-Electric Commission of Thunder Bay. Conveyance, lease and agreement not affected

3. Subsection 3 of section 20 of the said Act is repealed. s. 20 (3), repealed

4. This Act shall be deemed to have come into force on the 1st day of January, 1970. Commencement

5. This Act may be cited as *The City of Thunder Bay Amendment Act, 1976*. Short title

SCHEDULE A

ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the City of Thunder Bay in the District of Thunder Bay in the Province of Ontario and being composed of the following:

FIRSTLY:

The whole of Lots Number Fifty-one (51) and Fifty-two (52) on the West Side of May Street and the South Forty-five and Seventy-eight One-hundredths (45.78′) feet in perpendicular width throughout from front to rear of Lot Number Fifty-three (53), all in the said City, according to a Plan registered in the Registry Office for the Registry Division of Thunder Bay as Number W-123.

SECONDLY:

The South Fifteen (15′) feet from front to rear of Lot Number One Hundred and Eighty-nine (189) in the Wiley Addition in the said City of Thunder Bay according to a Plan filed in the Office of Land Titles at Thunder Bay as Number WM-13, being a portion of Parcel 1448 in the Register for City of Fort William Freehold.

THIRDLY:

The North Eighteen (18′) feet of Lot Number One Hundred and Eighty-nine (189), the whole of Lot Number One Hundred and Ninety (190) and the South twenty-four (24′) feet of Lot Number One Hundred and Ninety-one (191) in the Wiley Addition in the said City of Thunder Bay according to a Plan filed in the Office of Land Titles at Thunder Bay as Number WM-13, being the whole of Parcel 2130 in the Register for City of Fort William Freehold.

FOURTHLY:

The North fifteen and one-half (15½′) feet from front to rear of Lot Number One Hundred and Ninety-one (191) and the whole of Lot Number One Hundred and Ninety-two (192) in the said City of Thunder Bay, according to a Plan filed in the Office of Land Titles at Thunder Bay as Number WM-13, being the whole of Parcel 1449 in the Register for City of Fort William Freehold.

FIFTHLY:

The Easterly forty-eight (48′) feet in the perpendicular width of Lots Numbered One Hundred and Eighty-seven (187) and One Hundred and Eighty-eight (188) in the said City of Thunder Bay, according to a Plan filed in the Office of Land Titles at Thunder Bay as Plan Number WM-13, being a portion of Parcel 1448 in the Register for City of Fort William Freehold.

SCHEDULE B

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the City of Thunder Bay in the District of Thunder Bay in the Province of Ontario and being composed of the whole of Lots Numbered One Hundred and Eighty-seven (187) and One Hundred and Eighty-eight (188) according to a Plan filed in the Office of Land Titles at Thunder Bay as Number WM-13, saving and excepting the Easterly Forty-eight (48′) feet in perpendicular width of the said Lots 187 and 188, being a portion of Parcel 1448 in the Register for City of Fort William Freehold.

An Act to amend
The City of Thunder Bay Act, 1968-69

1st Reading

June 10th, 1976

2nd Reading

June 16th, 1976

3rd Reading

THE HON. W. D. MCKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(*Reprinted as amended by the Committee of the Whole House*)

1976

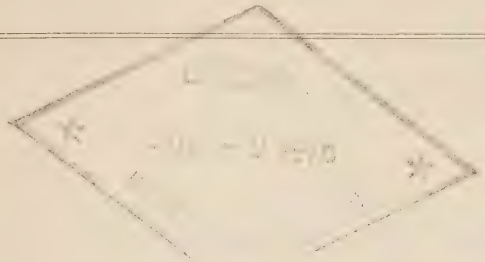
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BILL 106

Government Publications

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Legislative Assembly



An Act to amend The City of Thunder Bay Act, 1968-69

THE HON. W. D. MCKEOUGH
Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 106 1976

An Act to amend The City of Thunder Bay Act, 1968-69

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

s. 8 (4), amended

1.—(1) Subsection 4 of section 8 of *The City of Thunder Bay Act, 1968-69*, being chapter 56, is amended by striking out "of such Commission shall become, on that date, assets under the control and management and liabilities of The Hydro-Electric Commission of The Lakehead without compensation" in the fourth, fifth, sixth and seventh lines and inserting in lieu thereof "incurred in connection with the undertaking controlled and managed by such Commission shall become, on that date, assets under the control and management and liabilities incurred in connection with the undertaking of The Hydro-Electric Commission of Thunder Bay, without compensation".

s. 8 (5), amended

(2) Subsection 5 of the said section 8 is amended by striking out "of such Commission shall become, on that date, assets under the control and management and liabilities of The Hydro-Electric Commission of The Lakehead without compensation" in the fifth, sixth, seventh and eighth lines and inserting in lieu thereof "incurred in connection with the undertaking controlled and managed by such Commission shall become, on that date, assets under the control and management of and liabilities incurred in connection with the undertaking of The Hydro-Electric Commission of Thunder Bay, without compensation".

s. 8, amended

(3) The said section 8 is amended by adding thereto the following subsections:

Assets deemed vested

(7) Where any real property is held or registered in the name of The Hydro-Electric Commission of the City of Fort William, The Public Utilities Commission of the City

of Port Arthur or The Hydro-Electric Commission of Thunder Bay, such real property shall be deemed to have vested, as at the date of acquisition thereof, in the corporation of the City by or for which such commission was constituted to the same extent as if the title to such real property had been taken in the name of the corporation of the City at the time of the acquisition of such real property.

Title

(8) Title to all real property acquired and placed under the control and management of The Hydro-Electric Commission of Thunder Bay shall be taken and held in the name of the City.

Lands and premises declared assets of City

(9) The lands and premises set forth in Schedule A hereto are removed from the control and management of The Hydro-Electric Commission of Thunder Bay and are declared to be assets of the City free and clear of any control or management rights of The Hydro-Electric Commission of Thunder Bay, notwithstanding the provisions of any general or special Act, and the City may sell, lease or otherwise dispose of the said lands and premises without the assent of Ontario Hydro and may retain the proceeds of any such sale, lease or disposition as municipal funds.

Idem

(10) The lands and premises described in Schedule B hereto shall, at such time as they are no longer required for the undertaking of The Hydro-Electric Commission of Thunder Bay, as evidenced by a resolution of such Commission, become assets of the City free and clear of any control or management rights of The Hydro-Electric Commission of Thunder Bay and, notwithstanding the provisions of any general or special Act, the City may then sell, lease or otherwise dispose of the said lands and premises without the assent of Ontario Hydro and may retain the proceeds of any such sale, lease or disposition as municipal funds.

Moneys

(11) The City shall place under the control and management of The Hydro-Electric Commission of Thunder Bay the sum of $283,300, of which $5,000 has already been placed under the control and management of such Commission, and the balance of $278,300 shall be payable on the 1st day of July, 1976, with interest thereon from the 1st day of August, 1970, compounded annually at the rate of 8 per cent, which total amount the City shall be entitled to raise by any means it deems appropriate.

Disposition of lands and premises

(12) With the exception of the lands and premises set forth in Schedule A hereto, where The Hydro-Electric Commission of Thunder Bay is of the opinion, and so

declares by resolution, that any real property under its control and management is not required for the purposes of The Hydro-Electric Commission of Thunder Bay unless otherwise agreed upon by the City and the Commission it may be disposed of as follows:

1. In the event that the City wishes to retain such real property for a *bona fide* municipal purpose, it shall compensate The Hydro-Electric Commission of Thunder Bay for such real property at its actual cost, less accrued depreciation as shown on the books of The Hydro-Electric Commission of Thunder Bay, or the assessed value of such real property, whichever is the greater and the City may sell, lease or otherwise dispose of such real property without the assent of Ontario Hydro and may retain the proceeds of any such sale, lease or disposition as municipal funds.

2. In the event that the City does not wish to retain such real property in accordance with paragraph 1, the City shall, as soon as practicable, sell, lease or otherwise dispose of such real property at fair market value and the net proceeds derived from any sale, lease or other disposition of such real property or the compensation paid therefor pursuant to this subsection shall be paid over to The Hydro-Electric Commission of Thunder Bay and shall be applied in accordance with *The Public Utilities Act*. R.S.O. 1970, c. 390

(13) Except as provided in this section, the general provisions of any Act pertaining to a municipal hydro-electric commission shall continue to apply to the City and The Hydro-Electric Commission of Thunder Bay. Application of Acts

2. This Act shall not affect the conveyance by The Hydro-Electric Commission of Thunder Bay to Ontario Hydro dated the 17th day of July, 1975, and registered as Instrument No. 179322 in the Registry Office for the Registry Division of Thunder Bay nor the Lease from Ontario Hydro to The Hydro-Electric Commission of Thunder Bay registered as Instrument No. 182624 in the said Registry Office, nor the Agreement respecting possession of certain lands and premises dated the 28th day of May, 1975, and made between the City and The Hydro-Electric Commission of Thunder Bay. Conveyance, lease and agreement not affected

3. Subsection 3 of section 20 of the said Act is repealed. s. 20 (3), repealed

4. This Act shall be deemed to have come into force on the 1st day of January, 1970. Commencement

5. This Act may be cited as *The City of Thunder Bay Amendment Act, 1976*. Short title

SCHEDULE A

ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the City of Thunder Bay in the District of Thunder Bay in the Province of Ontario and being composed of the following:

FIRSTLY:

The whole of Lots Number Fifty-one (51) and Fifty-two (52) on the West Side of May Street and the South Forty-five and Seventy-eight One-hundredths (45.78′) feet in perpendicular width throughout from front to rear of Lot Number Fifty-three (53), all in the said City, according to a Plan registered in the Registry Office for the Registry Division of Thunder Bay as Number W-123.

SECONDLY:

The South Fifteen (15′) feet from front to rear of Lot Number One Hundred and Eighty-nine (189) in the Wiley Addition in the said City of Thunder Bay according to a Plan filed in the Office of Land Titles at Thunder Bay as Number WM-13, being a portion of Parcel 1448 in the Register for City of Fort William Freehold.

THIRDLY:

The North Eighteen (18′) feet of Lot Number One Hundred and Eighty-nine (189), the whole of Lot Number One Hundred and Ninety (190) and the South twenty-four (24′) feet of Lot Number One Hundred and Ninety-one (191) in the Wiley Addition in the said City of Thunder Bay according to a Plan filed in the Office of Land Titles at Thunder Bay as Number WM-13, being the whole of Parcel 2130 in the Register for City of Fort William Freehold.

FOURTHLY:

The North fifteen and one-half (15½′) feet from front to rear of Lot Number One Hundred and Ninety-one (191) and the whole of Lot Number One Hundred and Ninety-two (192) in the said City of Thunder Bay, according to a Plan filed in the Office of Land Titles at Thunder Bay as Number WM-13, being the whole of Parcel 1449 in the Register for City of Fort William Freehold.

FIFTHLY:

The Easterly forty-eight (48′) feet in the perpendicular width of Lots Numbered One Hundred and Eighty-seven (187) and One Hundred and Eighty-eight (188) in the said City of Thunder Bay, according to a Plan filed in the Office of Land Titles at Thunder Bay as Plan Number WM-13, being a portion of Parcel 1448 in the Register for City of Fort William Freehold.

SCHEDULE B

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the City of Thunder Bay in the District of Thunder Bay in the Province of Ontario and being composed of the whole of Lots Numbered One Hundred and Eighty-seven (187) and One Hundred and Eighty-eight (188) according to a Plan filed in the Office of Land Titles at Thunder Bay as Number WM-13, saving and excepting the Easterly Forty-eight (48′) feet in perpendicular width of the said Lots 187 and 188, being a portion of Parcel 1448 in the Register for City of Fort William Freehold.

An Act to amend
The City of Thunder Bay Act, 1968-69

1st Reading

June 10th, 1976

2nd Reading

June 16th, 1976

3rd Reading

June 21st, 1976

THE HON. W. D. MCKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

BILL 107 Private Member's Bill

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications

An Act to amend The Labour Relations Act

MR. BOUNSALL

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JUN 1976

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The purpose of the Bill is to provide that the following would become criteria for the reopening of a contract during its lifetime:

1. The making, giving or issuing of an order, direction or notice against an employer under any Act for health or safety reasons.

2. The changing or proposed changing of the production standards at the place of employment.

3. The introduction or proposed introduction of technological change at the place of employment.

4. The contracting out to other persons work which would ordinarily be carried out by employees of the employer.

BILL 107 **1976**

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 36 of *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 36, re-enacted

36.—(1) Every collective agreement shall provide that there will be no strikes or lock-outs so long as the agreement continues to operate, except, Provision against strikes and lock-outs

(*a*) where an order, direction or notice has been made, given or issued against the employer under any Act for health or safety reasons;

(*b*) where the employer changes or proposes to change the production standards at the place of employment;

(*c*) where the employer introduces or proposes to introduce technological change at the place of employment; or

(*d*) where work which would ordinarily be carried out by employees of the employer is contracted out to other persons.

(2) If a collective agreement does not contain such a provision as mentioned in subsection 1, it shall be deemed to contain the following provision: Statutory provision

"There shall be no strikes or lock-outs so long as this agreement continues to operate, except,

(*a*) where an order, direction or notice has been made, given or issued against the employer under any Act for health or safety reasons;

(*b*) where the employer changes or proposes to change the production standards at the place of employment;

(*c*) where the employer introduces or proposes to introduce technological change at the place of employment; or

(*d*) where work which would ordinarily be carried out by employees of the employer is contracted out to other persons".

Commencement

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. This Act may be cited as *The Labour Relations Amendment Act, 1976*.

An Act to amend
The Labour Relations Act

1st Reading

June 10th, 1976

2nd Reading

3rd Reading

Mr. Bounsall

(*Private Member's Bill*)

1976

BILL 108 Government Bill

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications

An Act to provide for the Continuance of Certain Payments between Municipalities under The Child Welfare Act, 1965

THE HON. J. TAYLOR
Minister of Community and Social Services

UNIVERSITY OF TORONTO

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The purpose of the Bill is to correct an error in Schedule A referred to in section 6 of *The Statutes Revision Act, 1968-69*. The effect of the error was to repeal section 88 of *The Child Welfare Act, 1965* which was to be left unconsolidated and unrepealed. Since certain payments were made under section 88 from one municipality to another, this Bill will confirm that the payments were not invalidated as a result of the repeal. Section 88 of *The Child Welfare Act, 1965* reads as follows:

> *88. Where a child other than the child of an unmarried mother is in the care of a children's aid society immediately before this Act comes into force and the child belongs to a municipality other than a municipality in which the society has jurisdiction, as determined by the order committing the child to such care, the municipality to which the child belongs shall pay, and the municipality in which the society has jurisdiction may recover, an amount per day for the care of the child as determined in the manner prescribed by the Lieutenant Governor in Council by regulation.*

Section 6 of Regulation 86 of the Revised Regulations of Ontario, 1970, reads as follows:

> *6. The amount per day payable by a municipality under section 88 of The Child Welfare Act, Statutes of Ontario, 1965, chapter 14 shall be determined by dividing the aggregate of the totals of columns 5 and 6 of Part V of Form 1, minus the total of column 4 of the said Part, by the product obtained by multiplying the total in column 2 of the said Part by 365.*

BILL 108 **1976**

An Act to provide for the Continuance of Certain Payments between Municipalities under The Child Welfare Act, 1965

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Notwithstanding subsection 2 of section 7 of *The Statutes Revision Act, 1968-69*, being chapter 120, and Schedule A appended to the roll as referred to in subsection 1 of section 6 of the said Act and notwithstanding *The Revised Statutes Confirmation Act, 1972*, being chapter 83, section 88 of *The Child Welfare Act, 1965*, being chapter 14 and section 6 of Regulation 86 of the Revised Regulations of Ontario, 1970 made under the said section 88, shall be deemed to have been in force from and including the 1st day of September, 1971 to and including the 31st day of July, 1975. 1965, c. 14, s. 88 and R.R.O. 1970, Reg. 86, s. 6 in force

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. This Act may be cited as *The Child Welfare Municipal Payments Continuance Act, 1976*. Short title

An Act to provide for the Continuance of Certain Payments between Municipalities under The Child Welfare Act, 1965

1st Reading

June 10th, 1976

2nd Reading

3rd Reading

THE HON. J. TAYLOR
Minister of Community and Social Services

(*Government Bill*)

1976

BILL 108

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications

An Act to provide for the Continuance of Certain Payments between Municipalities under The Child Welfare Act, 1965

THE HON. J. TAYLOR
Minister of Community and Social Services

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 108 **1976**

An Act to provide for the Continuance of Certain Payments between Municipalities under The Child Welfare Act, 1965

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Notwithstanding subsection 2 of section 7 of *The Statutes Revision Act, 1968-69*, being chapter 120, and Schedule A appended to the roll as referred to in subsection 1 of section 6 of the said Act and notwithstanding *The Revised Statutes Confirmation Act, 1972*, being chapter 83, section 88 of *The Child Welfare Act, 1965*, being chapter 14 and section 6 of Regulation 86 of the Revised Regulations of Ontario, 1970 made under the said section 88, shall be deemed to have been in force from and including the 1st day of September, 1971 to and including the 31st day of July, 1975. 1965, c. 14, s. 88 and R.R.O. 1970, Reg. 86, s. 6 in force

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. This Act may be cited as *The Child Welfare Municipal Payments Continuance Act, 1976*. Short title

An Act to provide for the Continuance of Certain Payments between Municipalities under The Child Welfare Act, 1965

1st Reading

June 10th, 1976

2nd Reading

June 16th, 1976

3rd Reading

June 18th, 1976

THE HON. J. TAYLOR
Minister of Community and
Social Services

1976

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3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications
Legislative Assembly

An Act to amend The Ontario Energy Board Act

THE HON. D. TIMBRELL
Minister of Energy

Legislative Library

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

Section 1.—Subsection 1. Subsection 3 of section 19 of the Act provides for the items to be included in a rate base determined by the Ontario Energy Board and presently reads as follows:

(3) *The rate base to be determined by the Board under subsection 2 shall be the total of,*

(*a*) *a reasonable allowance for the cost of the property that is used or useful in serving the public, less an amount considered adequate by the Board for depreciation, amortization and depletion;*

(*b*) *a reasonable allowance for working capital; and*

(*c*) *such other amounts as, in the opinion of the Board, ought to be included.*

The amendment provides for the inclusion of gas supply related investments as an additional item.

Subsection 2. Subsection 2 of section 19 of the Act requires the Board, in making rate orders under subsection 1 of section 19, to determine a rate base and to determine whether the return on the rate base produced by the rate approved by the order is reasonable.

Subsection 7 of section 19 of the Act permits the Board, in the cases set out in subsection 7, to grant a rate order without making the determination of a rate base in the various cases set out in the clauses of subsection 7. The amendment of the first and second lines of the subsection permits the Board, in the cases set out in subsection 7, to dispense with the making of the determinations of rate base and fair return required by subsection 2 of section 19.

New clause *fa* applies to increases in gas costs resulting from gas supply related investments.

BILL 109 **1976**

An Act to amend The Ontario Energy Board Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 3 of section 19 of *The Ontario Energy Board Act*, being chapter 312 of the Revised Statutes of Ontario, 1970, is amended, s. 19 (3), amended

(*a*) by striking out "and" at the end of clause *b*; and

(*b*) by adding thereto the following clause:

(*ba*) where the regulations provide for the inclusion thereof, a reasonable allowance for the amount paid by way of an investment in another corporation or body or in any manner whatsoever,

(i) directly or indirectly, to acquire, manufacture or transport or to obtain the right to acquire, manufacture or transport gas for use in Ontario, and

(ii) for a direct or indirect interest in the planning, development, construction, operation or ownership of a project, undertaking or business that is intended to acquire, manufacture or transport gas for use in Ontario,

less any portion thereof determined by the Board to be included in cost of service; and

. . . . .

(2) Subsection 7 of the said section 19, as amended by the Statutes of Ontario, 1973, chapter 55, section 5, is further amended, s. 19 (7), amended

(*a*) by striking out "Notwithstanding anything to the contrary, the Board may dispense with the determination of a rate base," in the first and second lines and inserting in lieu thereof "In making an order under subsection 1, the Board may dispense with making the determinations mentioned in subsection 2,";

(*b*) by striking out "or" at the end of clause *f*; and

(*c*) by adding thereto the following clause:

(*fa*) in the case of the approval or fixing of increased rates or other charges of a gas transmitter, gas distributor or storage company, where the purpose and effect of increasing the rates or other charges is to permit the gas transmitter, gas distributor or storage company to recover from its customers on a unit basis of gas sold the cost of providing and carrying the amount paid for a purpose mentioned in clause *ba* of subsection 3; or

. . . . .

s. 36 (1), amended

2. Subsection 1 of section 36 of the said Act is amended by adding thereto the following clause:

(*ga*) providing for the inclusion of reasonable allowances in rate bases under clause *ba* of subsection 3 of section 19 in respect of amounts paid by way of investment in other corporations or bodies or in any manner whatsoever,

(i) directly or indirectly,

A. to acquire or obtain the right to acquire,

B. to manufacture or obtain the right to manufacture, or

C. to transport or obtain the right to transport,

gas for use in Ontario, or

(ii) for a direct or indirect interest in,

A. the planning,

SECTION 2. Subsection 1 of section 36 of the Act provides for the making of regulations by the Lieutenant Governor in Council. The amendment provides for the making of regulations complementary to clause *ba* of subsection 3 of section 19 of the Act, enacted by subsection 1 of section 1 of this Bill.

B. the development,

C. the construction,

D. the operation, or

E. the ownership,

of a project, an undertaking or a business that is intended to acquire, manufacture or transport gas for use in Ontario.

3. This Act comes into force on the day it receives Royal Assent. Commencement

4. This Act may be cited as *The Ontario Energy Board Amendment Act, 1976*. Short title

An Act to amend
The Ontario Energy Board Act

1st Reading

June 15th, 1976

2nd Reading

3rd Reading

THE HON. D. TIMBRELL
Minister of Energy

(*Government Bill*)

1976

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3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications

An Act to provide for Warranties in the Sale of Consumer Products

THE HON. S. B. HANDLEMAN
Minister of Consumer and Commercial Relations

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Explanatory Note

The Bill implements recommendations of the Ontario Law Reform Commission in its Report on Consumer Warranties and Guarantees in the Sale of Goods.

The reforms provided for by the Bill include:

(1) A statement of implied warranties that apply to every consumer sale and product, with no ability to contract out.

(2) The extension of responsibility for breach of warranties to the manufacturer notwithstanding there is no privity of contract.

(3) Certain warranties accompany the goods regardless of resale.

BILL 110 **1976**

An Act to provide for Warranties in the Sale of Consumer Products

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act, Interpretation

(*a*) "consumer" means a natural person who is the owner or has the right to possess and use a consumer product, but does not include a natural person, partnership or association of individuals acting in the course of carrying on business;

(*b*) "consumer product" means a chattel personal including a chattel that becomes a fixture but not including a food, drink, medicine, cosmetic, clothing or a chose in action;

(*c*) "express warranty" means an affirmation of fact or promise relating to the quality, condition, quantity, performance or efficacy of a consumer product or relating to its use and maintenance where the tendency of such affirmation is to induce the buyer to purchase the consumer product;

(*d*) "implied warranty" means a warranty provided for by this Act to be an implied warranty;

(*e*) "manufacturer", when used in relation to a consumer product, means,

(i) a person who manufactures or assembles the consumer product,

(ii) a person who describes or holds himself out to the public as the manufacturer of the consumer product,

(iii) a person under whose brand name the consumer product is offered for sale,

(iv) where the consumer product is imported into Canada and there is no manufacturer as defined in subclause i, ii or iii in Canada, the person who imported the consumer product,

and more than one person may be manufacturers of the same consumer product;

(*f*) "retail buyer" means a consumer who buys a consumer product from a retail seller;

(*g*) "retail seller" means a seller who engages in the business of selling consumer products to consumers;

(*h*) "sale" means the transfer of the right to possess and use a consumer product and includes the transfer of possession or right to possession under an agreement to sell or conditional sale agreement or under a lease with an option to purchase or a lease for more than one year and "sell" and other forms of the verb have a corresponding meaning;

(*i*) "seller" means a person who sells a consumer product to a consumer and includes a retail seller;

(*j*) "warranty" means an express or implied warranty.

Application of Act

(2) This Act does not apply in respect of a consumer product purchased by the consumer thereof for a consideration that is less than $25.

Application of ss. 12-16 and ss. 51-53 of R.S.O. 1970, c. 421

(3) Sections 12 to 16 and sections 51, 52 and 53 of *The Sale of Goods Act* do not apply in respect of the sale of consumer products.

Warranty as to title

2. There is an implied warranty by the seller of a consumer product to the consumer to whom the consumer product is sold,

(*a*) that the seller has a right to sell the consumer product;

(*b*) that the consumer will have and enjoy quiet possession of the consumer product; and

(*c*) that the consumer product is free from any charge

or encumbrance not declared or known to the consumer before or at the time the sale is made.

Warranty as to conformance to buyer's description

3.—(1) Where there is a sale of a consumer product to a retail buyer by description formulated by the retail buyer, there is an implied warranty by the retail seller that the consumer product conforms to the description.

Warranty as to conformance to seller's description

(2) Where there is a sale of a consumer product to a retail buyer,

(*a*) by sample;

(*b*) by description formulated by the retail seller; or

(*c*) by description made by a person other than the retail seller,

there is an implied warranty,

(*d*) by the retail seller in a case to which clause *a* or *b* applies; or

(*e*) by the manufacturer and retail seller jointly in a case to which clause *c* applies,

to the retail buyer that the consumer product corresponds to the description or sample.

Modes of description

(3) For the purposes of subsection 2, the description of a consumer product includes description by advertisement or by label or associated with the product orally or in writing.

Sample and description

(4) For the purposes of subsection 2, where a sale is by sample as well as description, it is not sufficient that the consumer product corresponds with the sample if the consumer product does not also correspond with the description.

Warranty of acceptability

4. There is an implied warranty by the manufacturer and retail seller jointly to the consumer of a consumer product that,

(*a*) the consumer product and its components will perform for a reasonable length of time, having regard to the price and all surrounding circumstances;

(*b*) the consumer product is in such an actual state that a buyer fully acquainted with the facts and therefore knowing what hidden defects exist would

buy it for all purposes for which the consumer product is normally used without abatement of the price obtainable for such consumer product if in a reasonably sound state or without special terms unless,

(i) the retail seller or manufacturer has disclosed to the retail buyer defects in the consumer product or that the consumer products are not suitable for all purposes for which they are normally used, or

(ii) the defect should have been apparent to the consumer where he has examined the consumer product prior to purchase, or

(iii) it is common knowledge among consumers that the particular consumer products are not suitable for all such purposes.

Warranty as to spare parts and repairs

5. There is an implied warranty by the manufacturer and retail seller jointly to the consumer of a consumer product that spare parts and reasonable repair facilities will be available for a reasonable period of time.

Warranty as to fitness for purpose

6.—(1) There is an implied warranty by the retail seller to the retail buyer of a consumer product that the consumer product is reasonably fit for the particular purpose for which it is required, unless the circumstances are such as to show that the retail buyer did not rely, or that it was unreasonable for the retail buyer to rely, on the retail seller's skill and judgment.

Idem

(2) For the purposes of this section, a particular purpose for which the consumer product is required includes not only an unusual or special purpose but also a normal or usual purpose.

Express warranties

7.—(1) An express warranty made by a retail seller in connection with the sale of a consumer product to a retail buyer,

(*a*) if made in writing or published or broadcast, is an express warranty by the retail seller to the consumer of the consumer product;

(*b*) if not made in writing or published or broadcast, is an express warranty by the retail seller to the retail buyer of the consumer product.

(2) An express warranty made in writing or published or broadcast by a person other than a retail seller in connection with the sale of a consumer product to a retail buyer is a warranty by the retail seller and the manufacturer, jointly, to the consumer of the consumer product. Idem

(3) An express warranty does not negative an implied warranty. Idem

(4) For the purposes of this section, "made in writing or published or broadcast" means, "Made in writing or published or broadcast"

(*a*) made in writing and accompanying the product, whether on the package or separately, or handed to the buyer in the process of completing the sale;

(*b*) made in writing and distributed or displayed to the general public, whether by advertisement, sign, display or other means;

(*c*) made by television or radio broadcast to the general public,

and the person who causes the affirmation to be printed, distributed, displayed, published or broadcast shall be deemed to be the person who makes the affirmation.

8.—(1) Any term or acknowledgment whether written or otherwise and whether part of the agreement of sale or not, that purports to negative, exclude, restrict or diminish any warranty under this Act or the availability or scope of any remedy otherwise available for the breach thereof is void and of no effect and, if a term of a contract, is severable therefrom, and such term or acknowledgment shall not be evidence of circumstances showing an intent that any of such warranties are not to apply. Agreement waiving rights

(2) No person shall include in a written agreement anything that purports to be a term or acknowledgment that is void and of no effect under subsection 1. Inclusion of prohibited terms in contract

(3) Any act or representation by an employee or agent of a retail seller or manufacturer having apparent authority, shall be deemed to be an act or representation of the retail seller or manufacturer. Acts of employees

9.—(1) Where a warranty is given by this Act to a consumer, the person by whom the warranty is given owes a duty to the consumer to perform the warranty and is liable to the consumer in damages for any breach thereof or, where the warranty is given in connection with a contract of sale between them, to rescission of the contract, or both. Liability for breach of warranty

Evidence

(2) In the trial of an issue under subsection 1, oral evidence respecting the facts necessary to establish an implied or express warranty is admissible notwithstanding that there is a written agreement and notwithstanding that the evidence pertains to a representation or undertaking that is or is not provided for in the agreement.

Measure of damages

(3) The measure of damages for breach of warranty is the estimated loss directly and naturally resulting in the ordinary course of events from the breach of warranty.

Limitation of actions

(4) No action shall be brought under subsection 1 after the expiration of two years from the time the breach of warranty is first alleged.

Indemnity or contribution between persons jointly liable

10.—(1) Where by this Act the retail seller and manufacturer give a warranty jointly, the retail seller and all manufacturers of the consumer product are jointly and severally liable under section 9 but as between themselves, in the absence of any contract, express or implied, each is liable to make contribution and indemnify each other in the degree in which they are respectively found to be responsible for the creation of the circumstances leading to the creation of the warranty and its breach.

Settlement

(2) Where a claim for damages under section 9 is settled, for the purposes of an action for contribution or indemnity in respect of the amount paid under the settlement, the person settling shall satisfy the court that the amount of the settlement was reasonable, and in the event that the court finds the amount of the settlement was excessive it may fix the amount at which the claim should have been settled.

Agreements disclaiming or restricting indemnity

(3) Where the right of contribution or indemnity under this section is disclaimed or restricted by the terms of an agreement and it appears to the court that the disclaimer or restriction is unreasonable or unfair for the reason that the person against whom the disclaimer or restriction is imposed has no means to avoid liability or for any other reason, the court may declare the term void and of no effect, and the term shall be deemed to be severable from the agreement for the purpose.

Regulations

11. The Lieutenant Governor in Council may make regulations,

(*a*) governing the form, content and use of written express warranties that accompany the product;

(*b*) exempting any class of consumer products from this Act and the regulations or any provision thereof.

Penalty

12.—(1) Every person who, knowingly,

(*a*) contravenes subsection 2 of section 8; or

(*b*) gives an express warranty that is in contravention of a regulation made under clause *a* of section 11,

is guilty of an offence and on summary conviction is liable to a fine of not more than $5,000 or to imprisonment for a term of not more than one year, or to both.

Limitation

(2) No proceeding under this section shall be commenced more than two years after the time when the subject-matter of the proceeding arose.

Application of Act

13. This Act does not apply to a consumer product unless its first retail sale as new occurred after this Act comes into force.

Commencement

14. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

15. This Act may be cited as *The Consumer Products Warranties Act, 1976*.

An Act to provide for
Warranties in the Sale of
Consumer Products

1st Reading

June 15th, 1976

2nd Reading

3rd Reading

THE HON. S. B. HANDLEMAN
Minister of Consumer and
Commercial Relations

(*Government Bill*)

1976

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BILL 111 **Private Member's Bill**

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications

An Act to amend The Labour Relations Act

MR. BULLBROOK

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Explanatory Note

The Act does not presently refer to petitions or statements of desire. This Bill prohibits the Board's practice of considering petitions and statements of desire and thereby eliminates delays and reduces union certification costs.

BILL 111 **1976**

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 5*a*, enacted

5*a*. The Board shall not consider petitions or statements of desire filed by employees against an application for certification under section 5. Petitions or statements of desire

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. This Act may be cited as *The Labour Relations Amendment Act, 1976*. Short title

An Act to amend
The Labour Relations Act

1st Reading

June 15th, 1976

2nd Reading

3rd Reading

Mr. Bullbrook

(*Private Member's Bill*)

1976

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BILL 112 **Private Member's Bill**

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications

An Act to amend The Labour Relations Act

MR. BULLBROOK

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

This Bill prohibits the use of professional strike breakers.

BILL 112 **1976**

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 1 of *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1975, chapter 76, section 1, is further amended by adding thereto the following clause: s. 1 (1), amended

(*la*) "professional strike breaker" means a person who is not a party involved in a dispute whose primary object, in the opinion of the Board, is to prevent, interfere with or break up a lawful strike.

2. Section 58 of the said Act is amended by adding thereto the following clause: s. 58, amended

(*d*) shall use, or authorize or permit the use of, a professional strike breaker or an organization of professional strike breakers.

3. This Act comes into force on the day it receives Royal Assent. Commencement

4. This Act may be cited as *The Labour Relations Amendment Act, 1976*. Short title

An Act to amend
The Labour Relations Act

1st Reading

June 15th, 1976

2nd Reading

3rd Reading

Mr. Bullbrook

(*Private Member's Bill*)

1976

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BILL 113 **Private Member's Bill**

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications

An Act to amend The Labour Relations Act

MR. BULLBROOK



TORONTO
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Explanatory Note

Clause *i* of subsection 1 of section 1 of the Act at present reads as follows:

> (*i*) *"lock-out" includes the closing of a place of employment, a suspension of work or a refusal by an employer to continue to employ a number of his employees, with a view to compel or induce his employees, or to aid another employer to compel or induce his employees, to refrain from exercising any rights or privileges under this Act or to agree to provisions or changes in provisions respecting terms or conditions of employment or the rights, privileges or duties of the employer, an employers' organization, the trade union, or the employees.*

This Bill treats a lock-out in the same objective manner as a strike in relation to the test for determining whether or not a lock-out has occurred.

BILL 113 **1976**

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *i* of subsection 1 of section 1 of *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 1 (1) (*i*), re-enacted

(*i*) "lock-out" includes the closing of a place of employment, a suspension of work or a refusal by an employer to continue to employ a number of his employees.

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. This Act may be cited as *The Labour Relations Amendment Act, 1976*. Short title

An Act to amend
The Labour Relations Act

1st Reading

June 15th, 1976

2nd Reading

3rd Reading

Mr. Bullbrook

(*Private Member's Bill*)

1976

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3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications
Legislative Assembly

An Act to amend The Labour Relations Act

MR. BULLBROOK

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Explanatory Note

Clause *gb* of subsection 1 of section 1 of the Act at present reads as follows:

(*gb*) *"employee" includes a dependent contractor.*

This Bill limits the scope and extent of supervisory exclusion under the Act.

BILL 114 **1976**

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause *gb* of subsection 1 of section 1 of *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1975, chapter 76, section 1, is repealed and the following substituted therefor: s. 1 (1) (*gb*), re-enacted

(*gb*) "employee" means a person employed to do work and includes a dependent contractor, but does not include a person who is employed in a capacity that, in the opinion of the Board, would make it unfair to that person, the employer or a union to include the person in a unit for collective bargaining purposes because,

(i) the person performs management functions primarily, or

(ii) the person is employed in a confidential capacity in matters relating to labour relations.

(2) Clause *b* of subsection 3 of the said section 1 is repealed. s. 1 (3) (*b*), repealed

2. The said Act is amended by adding thereto the following section: s. 3*a*, enacted

3a. For the purposes of this Act, an employee is not exercising management functions or employed in a confidential capacity in matters relating to labour relations by reason of his duties and functions as an employee including the supervision of other employees of the same employer. Employees deemed not to cease being employees

3. This Act comes into force on the day it receives Royal Assent. Commencement

4. This Act may be cited as *The Labour Relations Amendment Act, 1976*. Short title

An Act to amend
The Labour Relations Act

1st Reading

June 15th, 1976

2nd Reading

3rd Reading

MR. BULLBROOK

(*Private Member's Bill*)

1976

BILL 115 Private Member's Bill

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications

An Act to amend The Labour Relations Act

MR. BULLBROOK

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EXPLANATORY NOTES

Subsection 5*a* of section 37 of the Act at present reads as follows:

(5*a*) *Except where a collective agreement states that this subsection does not apply, an arbitrator or arbitration board may extend the time for the taking of any step in the grievance procedure under a collective agreement, notwithstanding the expiration of such time, where the arbitrator or arbitration board is satisfied that there are reasonable grounds for the extension and that the opposite party will not be substantially prejudiced by the extension.*

Section 1 of this Bill extends the provision of this section to all collective agreements.

Section 2 of this Bill extends the protection of the Board's decisions with respect to technical defects to the processing of grievances through to arbitration.

BILL 115 **1976**

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 5*a* of section 37 of *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1975, chapter 76, section 10, is amended by striking out "Except where a collective agreement states that this subsection does not apply" in the first and second lines. s. 37 (5*a*), amended

2. Section 103 of the said Act is repealed and the following substituted therefor: s. 103, re-enacted

103. No proceedings under this Act or grievances under collective agreements are invalid by reason of any defect of form or any technical irregularity and no such proceeding or grievance shall be quashed or set aside if no substantial wrong or miscarriage of justice has occurred. Defects in form; technical irregularities

3. This Act comes into force on the day it receives Royal Assent. Commencement

4. This Act may be cited as *The Labour Relations Amendment Act, 1976*. Short title

An Act to amend
The Labour Relations Act

1st Reading

June 15th, 1976

2nd Reading

3rd Reading

MR. BULLBROOK

(*Private Member's Bill*)

1976

BILL 116 **Private Member's Bill**

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications

An Act to amend The Labour Relations Act

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Explanatory Note

This Bill provides finality to the grievance arbitration procedure.

BILL 116 **1976**

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 37 of *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1975, chapter 76, section 10, is further amended by adding thereto the following subsection: s. 37, amended

(9*a*) (*a*) every order or decision of an arbitrator or of an arbitration board appointed pursuant to a collective agreement or this Act is final and shall not be questioned or reviewed by any court; Decisions not to be reviewed by court

(*b*) no order shall be made, process entered or proceeding taken in any court, whether by way of injunction, *certiorari*, prohibition, *quo warranto* or otherwise, to question, review, prohibit or restrain an arbitrator or arbitration board in any of his or its proceedings under this Part.

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. This Act may be cited as *The Labour Relations Amendment Act, 1976*. Short title

An Act to amend
The Labour Relations Act

1st Reading

June 15th, 1976

2nd Reading

3rd Reading

Mr. Bullbrook

(*Private Member's Bill*)

1976

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BILL 117 **Private Member's Bill**

Government Publications

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

An Act to amend The Labour Relations Act

MR. BULLBROOK

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Explanatory Note

This Bill restricts the availability of cease and desist relief under the Act in cases of organizational picketing which is carried on on a peaceful basis and imposes a duty on the Board to ensure, prior to its using cease and desist relief, that police assistance has been unsuccessful in controlling the problem.

BILL 117 **1976**

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 82 of *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1975, chapter 76, section 22, is amended by adding thereto the following subsection: s. 82, amended

(2) In every direction to a person to do or refrain from doing an act in connection with an unlawful strike, the Board must be satisfied that reasonable efforts to obtain police assistance, protection and action to prevent or remove any alleged danger of damage to property, injury to persons, obstruction of or interference with lawful entry upon or exit from the premises in question, or breach of the peace have been unsuccessful. Idem

2. Section 123 of the said Act is amended by adding thereto the following subsection: s. 123, amended

(1*a*) In every direction to a person to do or refrain from doing an act in connection with an unlawful strike, the Board must be satisfied that reasonable efforts to obtain police assistance, protection and action to prevent or remove any alleged danger of damage to property, injury to persons, obstruction of or interference with lawful entry upon or exit from the premises in question, or breach of the peace have been unsuccessful. Idem

3. This Act comes into force on the day it receives Royal Assent. Commencement

4. This Act may be cited as *The Labour Relations Amendment Act, 1976*. Short title

An Act to amend
The Labour Relations Act

1st Reading

June 15th, 1976

2nd Reading

3rd Reading

Mr. Bullbrook

(*Private Member's Bill*)

1976

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BILL 118 Private Member's Bill

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications

An Act to amend The Labour Relations Act

MR. BULLBROOK

TORONTO
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Explanatory Note

This Bill enables the Board to arbitrate a first collective agreement and thereby eliminates the irreconcilable differences from the bargaining process of a first collective agreement.

BILL 118 **1976**

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following sections: ss. 12*a*-12*c*, enacted

12*a*.—(1) Where a trade union certified as bargaining agent and an employer have been engaged in collective bargaining with a view to concluding their first collective agreement and have failed to conclude an agreement, the Minister may, at the request of either party and after such investigation as he considers necessary or advisable, direct the Board to inquire into the dispute and, if the Board considers it advisable, to settle the terms and conditions for the first collective agreement. First collective agreement

(2) The Board shall proceed as directed by the Minister and, if the Board settles the terms and conditions, those terms and conditions shall be deemed to constitute the collective agreement between the trade union and the employer and binding on them and the employees, except to the extent to which they agree in writing to vary any or all of those terms and conditions. Terms and conditions of collective agreement

12*b*. In settling the terms and conditions for a first collective agreement under section 12*a*, the Board shall give the parties an opportunity to present evidence and make representation and may take into account, among other things, Presentation of evidence

(*a*) the extent to which the parties have, or have not, bargained in good faith, in an effort to conclude a first collective agreement; and

(*b*) the terms and conditions of employment, if any, negotiated through collective bargaining for compar-

able employees performing the same or similar functions in the same or related circumstances.

One-year term

12*c*. In no event shall the collective agreement settled by the Board under section 12*a* be for a period exceeding one year from the date the Board settles the terms and conditions for a first collective agreement under that section.

Commencement

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. This Act may be cited as *The Labour Relations Amendment Act, 1976*.

An Act to amend
The Labour Relations Act

1st Reading

June 15th, 1976

2nd Reading

3rd Reading

Mr. Bullbrook

(*Private Member's Bill*)

1976

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BILL 119 **Private Member's Bill**

Government Publications

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

An Act to amend The Labour Relations Act

MR. BULLBROOK

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Explanatory Note

This Bill adds to the Act a provision dealing with the rights and privileges of trade unions and employees in the event of an employer's implementation of significant technological change. An employer who is bound by a collective agreement and who proposed to effect a technological change that is likely to affect the terms and conditions or security of employment of a significant number of his employees must give notice of the technological change to the union at least ninety (90) days prior to the date on which the change is to be effected. An employer who fails to give such notice may be forced into compliance by the Board. When the union receives notice of such technological change, it may apply to the Board for an order granting leave to serve on the employer a notice to commence collective bargaining for the purpose of revising the existing provisions of the collective agreement that relate to terms and conditions or security of employment or including new provisions in the agreement relating to such matters to assist the employees affected by the technological change to adjust to the effects of it. Similarly, upon such application having been made by the union, the employer is not able to effect the technological change until the Board's disposition of the application. This reopens the collective bargaining for purposes of negotiating the impact of technological change and where necessary, enables the parties to resort to economic sanctions.

BILL 119 **1976**

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following sections: ss. 125-129, enacted

125.—(1) In this section and sections 126 to 129, "technological change" means, Technological change

(*a*) the introduction by an employer into his work, undertaking or business of equipment or material of a different nature or kind than that previously utilized by him in the operation of the work, undertaking or business; and

(*b*) a change in the manner in which the employer carries on the work, undertaking or business that is directly related to the introduction of that equipment or material.

(2) Sections 126, 128 and 129 do not apply, in respect of a technological change, to an employer and a bargaining agent who are bound by a collective agreement where, Application of ss. 126, 128 and 129

(*a*) the employer has given to the bargaining agent a notice in writing of the technological change that is substantially in accordance with subsection 2 of section 129,

(i) prior to the day on which the employer and the bargaining agent entered into the collective agreement, if the notice requiring the parties to commence collective bargaining for the purpose of entering into that collective agreement was given, or

(ii) not later than the last day on which notice requiring the parties to commence collective bargaining for the purpose of entering into the collective agreement could have been given;

(*b*) the collective agreement contains provisions that specify procedures by which any matters that relate to terms and conditions or security of employment likely to be affected by a technological change may be negotiated and finally settled during the term of the agreement; or

(*c*) the collective agreement contains provisions that,

(i) are intended to assist employees affected by any technological change to adjust to the effects of the technological change, and

(ii) specify that sections 126, 128 and 129 do not apply, during the term of the collective agreement, to the employer and the bargaining agent.

Idem

(3) Sections 126, 128 and 129 apply only in respect of collective agreements that are entered into after the coming into force of those sections.

Notice of technological change

126.—(1) An employer who is bound by a collective agreement and who proposes to effect a technological change that is likely to affect the terms and conditions or security of employment of a significant number of his employees to whom the collective agreement applies shall give notice of the technological change to the bargaining agent bound by the collective agreement at least ninety days prior to the date on which the technological change is to be effected.

Contents of notice

(2) The notice referred to in subsection 1 shall be in writing and shall state,

(*a*) the nature of the technological change;

(*b*) the date upon which the employer proposes to effect the technological change;

(*c*) the approximate number and type of employees likely to be affected by the technological change;

(*d*) the effect that the technological change is likely to have on the terms and conditions or security of employment of the employees affected; and

(*e*) such other information as is required by the Board pursuant to subsection 3.

Specification by Board

(3) The Board may,

(*a*) specify the number of employees or the method of determining the number of employees that shall, in respect of any work, undertaking or business or any type of work, undertaking or business, be deemed to be "significant" for the purposes of this Act; and

(*b*) require any information in addition to the information required by subsection 2 to be included in a notice of technological change.

Application for order respecting technological change

127.—(1) Where a bargaining agent alleges that,

(*a*) sections 126, 128 and 129 apply to an employer in respect of an alleged technological change; and

(*b*) the employer has failed to comply with section 126,

the bargaining agent may, not later than thirty days after the bargaining agent became aware, or in the opinion of the Board ought to have become aware, of the failure of the employer to comply with section 126, apply to the Board for an order determining the matters so alleged.

Order respecting technological change

(2) Upon receipt of an application for an order determining the matters alleged under subsection 1 and after affording an opportunity for the parties to be heard, the Board may, by order,

(*a*) determine that sections 126, 128 and 129 do not apply to the employer in respect of the alleged technological change; or

(*b*) determine that sections 126, 128 and 129 apply to the employer in respect of the alleged technological change and that the employer has failed to comply with section 126 in respect of the technological change.

Idem

(3) The Board may, in any order made under clause *b* of subsection 2, or by order made after consultation with the parties pending the making of any order under subsection 2,

(*a*) direct the employer not to proceed with the technological change or alleged technological change for such period, not in excess of ninety days, as the Board considers appropriate;

(*b*) require the reinstatement of any employee displaced by the employer as a result of the technological change; and

(*c*) where an employee is reinstated pursuant to clause *b*, require the employer to reimburse the employee for any loss of pay suffered by the employee as a result of his displacement.

Order deemed to be notice

(4) An order of the Board made under clause *b* of subsection 2 in respect of an employer is deemed to be a notice of technological change given by the employer pursuant to section 126.

Application for order to serve notice to bargain

128.—(1) Where a bargaining agent receives notice of a technological change given by or in respect of an employer pursuant to section 126, the bargaining agent may, within thirty days from the date on which it receives the notice, apply to the Board for an order granting leave to serve on the employer a notice to commence collective bargaining for the purpose of revising the existing provisions of the collective agreement by which they are bound that relate to terms and conditions or security of employment, or including new provisions in the collective agreement relating to such matters, to assist the employees affected by the technological change to adjust to the effects of the technological change.

Order to serve notice to bargain

(2) Where the Board,

(*a*) has received from a bargaining agent an application under subsection 1 for an order granting leave to serve on an employer a notice to commence collective bargaining; and

(*b*) is satisfied that the technological change in respect of which the bargaining agent has received notice given pursuant to section 126 is likely, substantially and adversely, to affect the terms and conditions or security of employment of a signifi-

cant number of employees to whom the collective agreement between the bargaining agent and the employer applies,

the Board may, by order, grant leave to the bargaining agent to serve on the employer a notice to commence collective bargaining for the purpose referred to in subsection 1.

Conditions precedent to technological change

129. Where a bargaining agent applies to the Board under subsection 1 of section 128, the employer in respect of whom the application is made shall not effect the technological change in respect of which the application is made until,

(*a*) the Board has made an order refusing to grant leave to the bargaining agent to serve on the employer a notice to commence collective bargaining; or

(*b*) the Board has made an order granting leave to the bargaining agent to serve on the employer a notice to commence collective bargaining and an agreement has been reached as a result of collective bargaining.

Commencement

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. This Act may be cited as *The Labour Relations Amendment Act, 1976*.

An Act to amend
The Labour Relations Act

1st Reading

June 15th, 1976

2nd Reading

3rd Reading

Mr. Bullbrook

(*Private Member's Bill*)

1976

B56

BILL 123

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government
Publications

An Act to amend The Legislative Assembly Act

THE HON. R. WELCH
Minister of Culture and Recreation

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 123 **1976**

An Act to amend The Legislative Assembly Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 5 of section 65 of *The Legislative Assembly Act*, being chapter 240 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1973, chapter 151, section 7, is repealed and the following substituted therefor: s. 65 (5), re-enacted

(5) The member of the Assembly representing the electoral district of Cochrane North, Kenora, Rainy River or Lake Nipigon shall be paid the actual cost, not exceeding $2,500 in any year, of transportation by airplane within the electoral district and of accommodation within the electoral district or an electoral district contiguous thereto while on business as a member of the Assembly and any other member of the Assembly may be paid such of his actual costs of accommodation within the electoral district represented by him expended due to unusual or special circumstances while on business as a member of the Assembly as may be approved by the Board of Internal Economy, not exceeding $2,500 in any year. air travel and accommodation costs within certain electoral districts or under special circumstances

(2) Subsection 6 of the said section 65 is repealed and the following substituted therefor: s. 65 (6), re-enacted

(6) There shall be paid to each member of the Assembly for not more than six round trips by bus, train or economy flight by scheduled airline or by private or rented automobile, or any combination thereof, while travelling within Ontario in any year on business as a member of the Assembly from the member's residence or the seat of government at Toronto the lesser of, round trips within Ontario from residence or seat of government

(*a*) the total cost incurred by the member for not more than six such round trips; or

(*b*) $800,

and the cost of transportation,

(*c*) by bus, train and economy flight by scheduled airline shall be the actual cost thereof;

(*d*) by rented automobile shall be the cost of the rental including the cost of a reasonable amount of public liability and collision insurance in relation thereto; and

(*e*) by private automobile shall be an allowance of 15 cents for every mile of such transportation.

s. 65 (7), amended

(3) Subsection 7 of the said section 65 is amended by striking out "$3,000" in the fourteenth line and inserting in lieu thereof "$3,900".

s. 69 (*a*), re-enacted s. 69 (*b*), repealed

2. Clauses *a* and *b* of section 69 of the said Act, as enacted by the Statutes of Ontario, 1974, chapter 116, section 2, are repealed and the following substituted therefor:

(*a*) for the use of the caucus of the Government, the caucus of the Official Opposition and the caucus of a party that has a recognized membership of twelve or more persons in the Assembly, for research purposes, such sums of money as are appropriated therefor by the Legislature.

Commencement

3. This Act shall be deemed to have come into force on the 1st day of April, 1976.

Short title

4. This Act may be cited as *The Legislative Assembly Amendment Act, 1976*.

An Act to amend
The Legislative Assembly Act

1st Reading

June 17th, 1976

2nd Reading

June 21st, 1976

3rd Reading

June 21st, 1976

THE HON. R. WELCH
Minister of Culture and Recreation

1976

XB
-B56

BILL 126 **Private Member's Bill**

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications

An Act to provide for the Regulation of Smoking in Public Places

MR. CASSIDY

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The purpose of the Bill is to eliminate smoking in public places except in those areas specifically designated as smoking areas.

BILL 126 **1976**

An Act to provide for the Regulation of Smoking in Public Places

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpretation

(*a*) "public meeting" means any meeting, hearing or tribunal open to the public;

(*b*) "public place" means any enclosed indoor area to which the public has access or serving as a place of work including any public conveyance, but does not include a private enclosed office occupied exclusively by smokers even where the office may be visited by nonsmokers;

(*c*) "smoking" includes the carrying of a lighted cigar, cigarette, pipe or any other lighted smoking equipment.

2.—(1) No person shall smoke in a public place or at a public meeting except in an area designated as an area in which smoking is permitted. Prohibition against smoking

(2) No public place shall have any area designated as a smoking area where the area occupies more than 50 per cent of the total area of the public place. Idem

3. The Lieutenant Governor in Council may make regulations, Regulations

(*a*) prescribing an area or class of area to be a public place;

(*b*) exempting any area or class of area from the application of this Act and the regulations.

Offence

4. Every person who contravenes any section of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not more than $100 or to imprisonment for a term of fifteen days, or to both.

Commencement

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. This Act may be cited as *The Public Places Smoking Regulation Act, 1976*.

An Act to provide
for the Regulation of Smoking
in Public Places

1st Reading

June 18th, 1976

2nd Reading

3rd Reading

MR. CASSIDY

(*Private Member's Bill*)

1976

X
B 56

BILL 127 **Government Bill**

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Govern
Publicat

An Act to ratify the entering into of an Agreement under the Anti-Inflation Act (Canada)

THE HON. R. MCMURTRY
Attorney General

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The Bill ratifies the agreement entered into by the Treasurer of Ontario and the acting Minister of Finance of Canada in respect of the *Anti-Inflation Act* (Canada).

BILL 127 **1976**

An Act to ratify the entering into of an Agreement under the Anti-Inflation Act (Canada)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Agreement under 1974-75-76, c. 75 (Can.)

1. The agreement of the 13th day of January, 1976 signed by the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs and by the acting Minister of Finance of Canada and referring to subsection 3 of section 4 of the *Anti-Inflation Act* (Canada) is ratified on behalf of the Government of Ontario, and the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs shall be deemed to have been authorized by the Government of Ontario to enter into the agreement and the agreement is and shall be deemed to have been effective in accordance with its terms.

Confirmation of acts done pursuant to agreement

2. All acts done and orders, rules and decisions made on or after the 14th day of October, 1975 and prior to the coming into force of this Act in the application of the *Anti-Inflation Act* (Canada) and the regulations made thereunder in relation to the provincial public sector, as defined in the agreement referred to in section 1, are confirmed with the same effect as if the agreement were valid and effective when signed as referred to in section 1.

Inconsistent provincial law

3. In the event of any inconsistency between the provisions of this Act or the agreement and the operation of any other law of the Province of Ontario, the provisions of this Act and the agreement prevail to the extent of the inconsistency.

Commencement

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. This Act may be cited as *The Anti-Inflation Agreement Act, 1976*.

An Act to ratify the entering into of an Agreement under the Anti-Inflation Act (Canada)

1st Reading

July 13th, 1976

2nd Reading

3rd Reading

THE HON. R. MCMURTRY
Attorney General

(*Government Bill*)

1976

XB
B56

Government
Publications

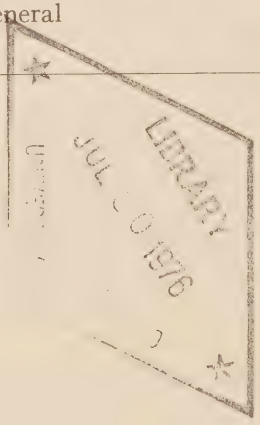
BILL 127

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Legislative Assembly

An Act to ratify the entering into of an Agreement under the Anti-Inflation Act (Canada)

THE HON. R. MCMURTRY
Attorney General



TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 127 **1976**

An Act to ratify the entering into of an Agreement under the Anti-Inflation Act (Canada)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Agreement under 1974-75-76, c. 75 (Can.)

1. The agreement of the 13th day of January, 1976 signed by the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs and by the acting Minister of Finance of Canada and referring to subsection 3 of section 4 of the *Anti-Inflation Act* (Canada) is ratified on behalf of the Government of Ontario, and the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs shall be deemed to have been authorized by the Government of Ontario to enter into the agreement and the agreement is and shall be deemed to have been effective in accordance with its terms.

Confirmation of acts done pursuant to agreement

2. All acts done and orders, rules and decisions made on or after the 14th day of October, 1975 and prior to the coming into force of this Act in the application of the *Anti-Inflation Act* (Canada) and the regulations made thereunder in relation to the provincial public sector, as defined in the agreement referred to in section 1, are confirmed with the same effect as if the agreement were valid and effective when signed as referred to in section 1.

Inconsistent provincial law

3. In the event of any inconsistency between the provisions of this Act or the agreement and the operation of any other law of the Province of Ontario, the provisions of this Act and the agreement prevail to the extent of the inconsistency.

Commencement

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. This Act may be cited as *The Anti-Inflation Agreement Act, 1976*.

An Act to ratify the entering into of an Agreement under the Anti-Inflation Act (Canada)

1st Reading

July 13th, 1976

2nd Reading

July 15th, 1976

3rd Reading

July 15th, 1976

THE HON. R. MCMURTRY
Attorney General

1976

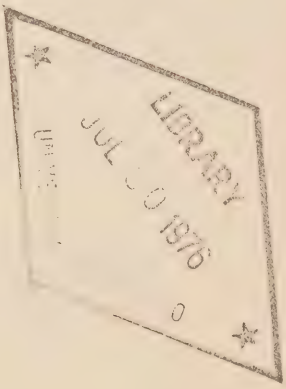
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3rd Session, 30th Legislature, Ontario
25 Elizabeth II, 1976

Government Publications

An Act respecting Special Educational Programs

Mr. Foulds



TORONTO
Printed by J. C. Thatcher, Queen's Printer for Ontario

Explanatory Note

This Bill guarantees access to education to all children of compulsory school age who suffer from any kind of learning disability including the blind, deaf, autistic, mentally handicapped and perceptually handicapped.

BILL 128 **1976**

An Act respecting Special Educational Programs

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Interpretation

1. In this Act, "board" means a board of education, public school board, secondary school board, Roman Catholic separate school board or Protestant separate school board.

Board to establish special educational programs

2. Every board shall, subject to sections 3 and 4, establish special educational programs to provide special educational services for those children who require such services and have a right to attend a school under the jurisdiction of the board.

Exception where parental consent and adequate alternative educational services

3. The fact that a child is blind, deaf, autistic, mentally handicapped or suffers from a perceptual handicap or any other learning disability does not release a board from its responsibility under section 2, unless that child's parents consent to the placing of that child in and that child is eligible for admission to a school or class for trainable retarded children, the Ontario School for the Blind, an Ontario School for the Deaf, or any other provincial institution adequate to meet that child's needs.

Costs to be borne by board

4. Where a child receives special educational services under section 3, the board responsible for that child under section 2 shall provide any additional transportation, food and accommodation costs incurred as a result of that child receiving such services.

Commencement

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. This Act may be cited as *The Special Educational Programs Act, 1976*.

An Act respecting
Special Educational Programs

1st Reading

July 15th, 1976

2nd Reading

3rd Reading

Mr. Foulds

(*Private Member's Bill*)

1976

XB
-P56

BILL 129 Private Member's Bill

3rd Session, 30th Legislature, Ontario
25 Elizabeth II, 1976

Government Publications

An Act to provide Political Rights for Public Servants

Mr. Cassidy



TORONTO
Printed by J. C. Thatcher, Queen's Printer for Ontario

Explanatory Note

This Bill is designed to give public servants the same political rights that all other citizens enjoy in Ontario. It covers civil servants, crown employees, employees of community colleges, and people working for agencies such as the Hydro-Electric Power Commission of Ontario, the Workmen's Compensation Board, and the Ontario Northland Transportation Commission, but excludes Deputy Ministers, officers of similar status in Crown agencies, and other senior policy-making officials.

The deleted sections of *The Public Service Act* make it illegal for a public servant to canvass on behalf of a candidate in an election, to solicit funds for a political party or a candidate at any time, or to speak or to write a letter to the editor on "any matter that forms part of the platform of a provincial or federal political party". A public servant may only become a candidate for election after the writs are issued and is effectively barred from being a candidate if a nomination is held before that date. The candidate must take leave of absence without pay for a period of 4 to 5 weeks.

The Bill provides that public servants will be able to write, speak, contribute, solicit funds, work, join, hold office, and vote on behalf of, in, for, or to a political party or candidate in a federal or provincial election and protects public servants from punitive action by their superiors or from being forced to carry out partisan duties as a condition of their employment.

The deleted section of *The Crown Employees Collective Bargaining Act, 1972* contains the sections which are re-enacted in the Bill and also prohibits an employee organization from receiving money from public employees who are its members for activities carried on by, or on behalf of a political party, from paying out money to, or on behalf of, the political party, or from otherwise supporting a political party. The penalty for these activities is loss of bargaining rights. The Bill will give an employee organization the rights enjoyed by other trade unions, prevents it from compelling an employee to engage in political activity, and provides for a wider range of penalties.

BILL 129 **1976**

An Act to provide Political Rights for Public Servants

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Interpretation

1. In this Act,

(*a*) "agency" means any board, agency, or commission of the Crown in right of Ontario;

(*b*) "public servant" means a person appointed in the service of the Crown by the Lieutenant Governor in Council, by the Civil Service Commission, or by a Minister, or a person employed in the service of the Crown or any agency of the Crown, but does not include any Deputy Minister or senior employee of the Crown or an agency with management or policy responsibilities;

(*c*) "Tribunal" means the Ontario Public Service Labour Relations Tribunal as defined in section 1 of *The Crown Employees Collective Bargaining Act, 1972*. 1972, c. 67

Political rights

2.—(1) Every public servant shall be entitled to exercise the following political rights,

(*a*) the right to vote;

(*b*) the right to actively support a political party or a candidate for provincial or federal office;

(*c*) the right to contribute to a political party at any time;

(*d*) the right to solicit funds for a candidate or for a political party;

(*e*) the right to be a member of a political party and to hold office in such party; and

(*f*) the right to express views on matters that form part of the platform of a provincial or federal political party.

Idem

(2) The rights provided in subsection 1 are subject to the condition that,

(*a*) the employee does not engage in political activities during working hours;

(*b*) the employee does not associate his position in the service of the Crown with any political activity;

(*c*) the employee does not speak in public or express views in writing for distribution to the public on any matter with which he is directly engaged in his employment with the Crown;

R.S.O. 1970, c. 386

(*d*) the employee respects his oath of office and secrecy, as provided under section 10 of *The Public Service Act*.

Partisan work by public servants

3. No public servant shall be required by his employer to engage in work or activity of a partisan nature for a candidate or a political party either during or outside working hours and, notwithstanding the provisions of any other Act, refusal to perform such activities shall be a justifiable defence against any dismissal, transfer, or other disciplinary action.

Leave of absence

4. A public servant who proposes to become a candidate in a provincial or federal election shall inform his Minister or the chief officer of his agency, and,

(*a*) may seek leave of absence without pay at any time after he is duly nominated by his party as its candidate; and

(*b*) shall take leave of absence commencing on the day on which the writ for the election is issued or on the day on which he is nominated by his party, whichever date comes later; and

(*c*) shall be granted leave with pay commencing on the day provided by statute for the nomination of candidates and ending on polling day,

and every such application shall be granted.

5. Where a public servant who is a candidate in a provincial or federal election is elected, he shall forthwith resign his position as a public servant. Resignation

6. Where a public servant who has resigned under section 5, Reappointment

(*a*) ceases to be an elected political representative within five years of his resignation; and

(*b*) applies for reappointment to his former position or to another position in the service of the Crown for which he is qualified, within three months of ceasing to be an elected political representative,

he shall be reappointed to the position upon its next becoming vacant.

7. Where a public servant has been granted leave of absence under section 4 and was not elected, or resigned his position under section 5 and was reappointed under section 6, the period of the leave of absence or resignation shall be computed in determining the length of his service for any purpose, and his service shall be deemed to be continuous for all purposes. Period of leave of absence

8. Every public servant who knowingly fails to comply with the requirements of this Act may be disciplined under the Act or regulation governing his employer. Disciplinary action

9.—(1) In this section, "employee organization" means an organization of employees formed for the purpose of regulating relations between the Crown in right of Ontario and public servants under this Act. Interpretation

(2) No employee organization shall, Prohibitions

(*a*) require as a condition of membership therein the payment by any of its members who are public servants of any money for activities carried on by, or on behalf of, any political party or candidate;

(*b*) require its members who are public servants otherwise to support or oppose any political party;

(*c*) discriminate against any employee because of age, sex, race, national origin, colour or religion.

(3) Where a public servant or the Crown in right of Ontario considers that an employee organization is in Tribunal

violation of section 9, a complaint may be lodged with the Tribunal, which shall conduct a public hearing to consider the matter and which may,

(*a*) dismiss the complaint; or

(*b*) withdraw bargaining rights from the employee organization involved; or

(*c*) levy a fine; or

(*d*) take such other disciplinary action as it considers appropriate.

R.S.O. 1970, c. 386, ss. 12-16, repealed

10. Sections 12, 13, 14, 15 and 16 of *The Public Service Act*, being chapter 386 of the Revised Statutes of Ontario, 1970, are repealed.

1972, c. 67, s. 1 (1) (*h*), repealed

11. Clause *h* of subsection 1 of section 1 of *The Crown Employees Collective Bargaining Act, 1972*, being chapter 67 of the Statutes of Ontario, 1972, is repealed.

Short title

12. This Act may be cited as *The Public Servants Political Rights Act, 1976*.

An Act to provide
Political Rights for Public Servants

1st Reading

July 15th, 1976

2nd Reading

3rd Reading

Mr. Cassidy

(*Private Member's Bill*)

1976

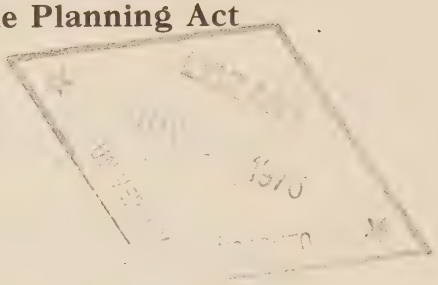
Ontario. Legislative Assembly

BILL 130 **Government Bill**

3rd Session, 30th Legislature, Ontario
25 Elizabeth II, 1976

Government Publications

An Act to amend The Planning Act



The Hon. J. R. Rhodes
Minister of Housing

TORONTO
Printed by J. C. Thatcher, Queen's Printer for Ontario

Explanatory Notes

Section 1. The new section 30*a* empowers the Minister, in respect of land situate in a territorial district, to delegate the Minister's power to grant consents to land divisions to the planning board of a planning area in the district.

The new section 30*b* empowers the Minister to constitute district land division committees and to confer on such committees the power to grant such consents in respect of land situate in a territorial district.

BILL 130 **1976**

An Act to amend The Planning Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Planning Act*, being chapter 349 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following sections: ss. 30*a*, 30*b*, enacted

30*a*.—(1) The Minister may by order delegate to a planning board of a planning area in a territorial district the authority of the Minister to give consents under section 29 in respect of any land within the planning area and where authority is delegated to a planning board the reference to the Minister in subclause ii of clause *b* and in clause *c* of subsection 1 of section 29 shall be deemed to be a reference to such planning board. Delegation of Minister's powers

(2) A delegation made by the Minister under subsection 1 may be subject to such conditions as the Minister may by order provide and the Minister may by order withdraw any delegation. Conditions and withdrawal of delegation

(3) Where the Minister has delegated his authority to a planning board under subsection 1, the provisions of subsections 6, 7, 11 and 12 of section 41 and subsections 3 to 20 of section 42 apply *mutatis mutandis* in respect of applications for consent and such planning board shall be deemed to be a committee of adjustment for the purposes of subsections 6 and 12 of section 29. Application of ss. 41 (6, 7, 11, 12), 42 (3-20)

(4) A planning board as referred to in subsection 3 may enter into agreements imposed as a condition to the giving of a consent in respect of land situate in territory without municipal organization and the provisions of subsection 12*a* of section 29 apply *mutatis mutandis* to any such agreement. Agreements

30*b*.—(1) The Minister by order may constitute and appoint one or more district land division committees com- Appointment of district land division committee and delegation

posed of such persons as he considers advisable and may by order delegate thereto the authority of the Minister to give consents under section 29 in respect of such lands situate in a territorial district as are defined in the order, and, where authority is delegated to a district land division committee, the reference to the Minister in subclause ii of clause *b* and in clause *c* of subsection 1 of section 29 shall be deemed to be a reference to such district land division committee.

Conditions and withdrawal of delegation

(2) A delegation made by the Minister under subsection 1 may be subject to such conditions as the Minister may by order provide and the Minister may by order withdraw any delegation.

Application of ss. 41 (6-9, 11, 12), 42 (3-20)

(3) Where the Minister has delegated his authority to a district land division committee under subsection 1, the provisions of subsections 6 to 9 and 11 and 12 of section 41 and subsections 3 to 20 of section 42 apply *mutatis mutandis* and such district land division committee is deemed to be a land division committee within the meaning of subsections 6 and 12 of section 29.

Agreements

(4) A district land division committee may enter into agreements imposed as a condition to the giving of a consent in respect of land situate in territory without municipal organization and the provisions of subsection 12*a* of section 29 apply *mutatis mutandis* to any such agreement.

Remuneration

(5) The members of a district land division committee appointed under this section shall be paid such remuneration as is provided for by the order appointing them.

Application of fees

(6) The moneys received by a district land division committee by way of fees in respect of applications made to it shall be applied by the committee to the extent required in payment of the committee's operating expenses, including the remuneration of its members.

Moneys
R.S.O. 1970, c. 349

2. Any moneys required for the purposes of section 30*b* of *The Planning Act*, as enacted by section 1 of this Act, shall, until the 31st day of March, 1977, be paid out of the Consolidated Revenue Fund, and thereafter out of the moneys appropriated therefor by the Legislature.

s. 31 (2), re-enacted

3. Subsection 2 of section 31 of the said Act is repealed and the following substituted therefor:

Where jurisdiction to grant consents may be terminated

(2) Notwithstanding any other provision in this Act, the Minister, if he is of the opinion that a committee of adjustment or a land division committee constituted and appointed

SECTION 2. Complementary to section 1 of the Bill; provision is made for the moneys required in connection with the operation of district land division committees.

SECTION 3. Subsection 2 of section 31 now empowers the Minister to withdraw from any committee of adjustment its consent-granting powers where he is of the opinion the committee is not exercising its powers in the manner contemplated by the Act; the re-enactment extends the Minister's power of withdrawal to any land division committee under the same circumstances.

SECTION 4.—Subsection 1. Subsection 5 of section 32 now reads as follows:

(5) *The Minister may give notice of any such order in such manner as he considers proper and the Minister shall cause a certified copy or duplicate of an order made under clause b of subsection 1 to be registered in the proper registry or land titles office.*

The subsection as re-enacted will require the Minister to give notice of any order he makes under section 32 of the Act within thirty days of its making, and to set out in the notice the provisions of subsections 7, 8 and 9 relating to the right of any person to request such order to be amended or revoked and to a hearing before the Municipal Board.

Subsection 2. The provisions of the new subsection 6 were formerly found in subsection 5. The provisions of subsection 7 relating to the Minister's authority to amend or revoke an order were formerly found in subsection 6; the provision relating to the right of any person to request such amendment or revocation is new. The new subsection 8 requires the Minister to allow an appropriate period of time within which representations may be made, before he amends or revokes any order.

The provisions of the new subsection 9 relating to a hearing by the Municipal Board were formerly found in subsection 6*a*; the subsection is extended to confer on any person the right to require a hearing by the Municipal Board, subject only to the right of the Minister under subsection 10 to refuse such hearing where in his opinion the request for hearing is not made in good faith or is frivolous or made only for the purpose of delay. The new subsection 11 provides for notice of the hearing by the Board. The new subsections 12 and 13 contain the provisions formerly found in subsections 6*c* and 6*d*. The new subsection 14 increases the maximum fine for a contravention of a Minister's zoning order from $500 to $1,000. The new subsection 15 contains the provisions formerly found in subsection 8.

Subsections 6 to 8 of section 32 now read as follows:

(6) *The Minister may, by order, revoke or amend any order made under subsection 1.*

(6*a*) *Where an application is made to the Minister for an amendment to an order made under clause a of subsection 1, the Minister may request the Municipal Board to hold a hearing on the application and thereupon the Municipal Board shall hold a hearing as to whether the order should be amended.*

under section 30 is not giving consents in the manner contemplated by the provisions of this Act, may by order declare that such committee has no further jurisdiction to give consents for the purposes of section 29, and thereafter where the jurisdiction of a committee of adjustment has been so terminated, the Minister or the land division committee, as the case may be, shall act in the place and stead of the committee of adjustment for the giving of consents, and, where the jurisdiction of a land division committee has been so terminated, the Minister shall act in the place and stead of the land division committee.

4.—(1) Subsection 5 of section 32 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 118, section 4, is repealed and the following substituted therefor: s. 32 (5), re-enacted

(5) No notice or hearing is required prior to the making of an order under subsection 1 but the Minister shall give notice of any such order within thirty days of the making thereof in such manner as he considers proper and shall set out in the notice the provisions of subsections 7, 8 and 9. Notice

(2) Subsection 6, subsections 6*a*, 6*b*, 6*c* and 6*d*, as enacted by the Statutes of Ontario, 1973, chapter 168, section 8, and subsections 7 and 8 of the said section 32 are repealed and the following substituted therefor: s. 32 (6-8), re-enacted

(6) The Minister shall cause a certified copy or duplicate of an order made under clause *b* of subsection 1 to be registered in the proper land registry office. Registration

(7) The Minister may, on his own initiative or at the request of any person, by order amend or revoke in whole or in part any order made under subsection 1. Revocation or amendment

(8) Except as provided in subsection 9, the Minister before amending or revoking in whole or in part an order made under subsection 1 shall give notice or cause to be given notice thereof in such manner as he considers proper and shall allow such period of time as he considers appropriate for the submission of representations in respect thereof. Notice

(9) Where an application is made to the Minister to amend or revoke in whole or in part any order made under subsection 1, the Minister may, and on the request of any person shall, request the Municipal Board to hold a hearing on the application and thereupon the Municipal Board shall hold a hearing as to whether the order should be amended or revoked in whole or in part. Hearing by O.M.B.

Refusal of request by Minister

(10) Notwithstanding subsection 9, where the Minister is of the opinion that a request made under subsection 9 is not made in good faith or is frivolous or is made only for the purpose of delay, he may refuse such request.

Notice of hearing

(11) Where the Minister has requested the Municipal Board to hold a hearing as provided for in subsection 9 notice of the hearing shall be given in such manner and to such persons as the Municipal Board may direct, and the Municipal Board shall hear any submissions that any person may desire to bring to the attention of the Board.

Report to Minister

(12) At the conclusion of the hearing, the Municipal Board shall make a report to the Minister in which shall be set out the Municipal Board's findings and recommendations in respect of the application and shall send a copy of the report to each person who appeared at the hearing and made representation on the matter.

Decision of Minister final

(13) After considering the report of the Municipal Board, the Minister may either amend or revoke the order in whole or in part or refuse to amend or revoke the order in whole or in part and the decision of the Minister is final.

Offence

(14) Every person who contravenes an order of the Minister made under clause *a* of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than $1,000.

Effect of land use order

(15) An order of the Minister made under clause *b* of subsection 1 has the same effect as a by-law passed under section 29.

Prior orders not invalid for deficiency in procedure R.S.O. 1970, c. 349

5.—(1) No order or regulation heretofore made in exercise of the powers conferred under section 32 of *The Planning Act* is invalid by reason only of any deficiency in the making or bringing into force of such order or regulation, including the lack of a hearing at any time prior to the coming into force of this section.

Saving

(2) Subsection 1 does not affect the rights acquired by any person from a judgment or order of any court prior to the day on which this Act comes into force or affect the outcome of any litigation commenced on or before the 26th day of October, 1976.

s. 42 (11, 12), re-enacted

6.—(1) Subsections 11 and 12 of section 42 of the said Act are repealed and the following substituted therefor:

(6b) *The Minister shall, in such manner and to such persons as the Municipal Board may direct, give notice of the application and the hearing before the Municipal Board, and the Municipal Board shall hear any objections that any person may desire to bring to the attention of the Municipal Board.*

(6c) *At the conclusion of the hearing, the Municipal Board shall make a report to the Minister in which shall be set out the Municipal Board's findings and recommendations in respect of the requested amendment and shall send a copy of the report to each person who appeared at the hearing and made representation on the matter.*

(6d) *After considering the report of the Municipal Board, the Minister may either amend or refuse to amend the order and the decision of the Minister is final.*

(7) *Every person who contravenes an order of the Minister made under clause a of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than $500.*

(8) *An order of the Minister made under clause b of subsection 1 has the same effect as a by-law passed under section 29.*

SECTION 5. The effect of the section is to provide that previous orders of the Minister made under section 32 of the Act are not subject to being declared invalid by reason of any procedural defect in their making; the usual protection is afforded in the case of court decisions made or litigation commenced prior to the first reading date of this Bill.

SECTION 6.—Subsection 1. The present subsections 11 and 12 of section 42 require the secretary-treasurer of a committee of adjustment or of a land division committee to furnish in every case to the Minister a copy of its decision as well as the additional material mentioned. The re-enactment will require the sending of such material to the Minister only by a committee that has received a notice by the Minister so requiring it.

Subsection 2. The present subsection 15 requires the Municipal Board to send to the Minister a notice of every hearing to be held by the Board on an appeal from a decision of a committee of adjustment or land division committee; the re-enactment deletes that requirement.

Subsection 3. The re-enactment of the subsections deletes the requirement that the Minister receive a copy of every order by the Board made following an appeal from a decision by a committee.

(11) The secretary-treasurer shall send by mail one copy of the decision, certified by him, Notice of decision

(*a*) to the Minister if the Minister has notified the committee by registered mail that he wishes to receive a copy of all decisions of the committee;

(*b*) to the applicant; and

(*c*) to each person who appeared in person or by counsel at the hearing and who filed with the secretary-treasurer a written request for notice of the decision,

together with a notice of the last day for appealing to the Municipal Board.

(12) Where the secretary-treasurer is required to send a copy of the decision to the Minister under subsection 11, he shall also send to the Minister with such copy, the following: Additional material

1. A copy of the application to the committee certified by the secretary-treasurer.

2. A copy of the draft minutes of the hearing by the committee as prepared for adoption by the committee.

3. A copy of all maps or sketches that were before the committee on the hearing of the application and that show the land, building or structure that was the subject-matter of the application.

4. A sworn declaration by the secretary-treasurer that he has complied with the requirements of subsection 11.

(2) Subsection 15 of the said section 42 is repealed and the following substituted therefor: s. 42 (15), re-enacted

(15) On an appeal to the Municipal Board, the Municipal Board shall hold a hearing of which notice shall be given to the applicant, the appellant, the secretary-treasurer of the committee and to such other persons and in such manner as the Municipal Board may determine. Hearing

(3) Subsections 18 and 19 of the said section 42 are repealed and the following substituted therefor: s. 42 (18, 19), re-enacted

(18) When the Municipal Board makes an order on an appeal, the secretary of the Municipal Board shall send a Notice of decision

copy thereof to the applicant, the appellant and the secretary-treasurer of the committee.

Idem

(19) The secretary-treasurer shall file a copy of the order of the Municipal Board with the clerk of the municipality.

Commencement

7. This Act comes into force on the day it receives Royal Assent.

Short title

8. This Act may be cited as *The Planning Amendment Act, 1976*.

BILL 130 **1976**

An Act to amend The Planning Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Planning Act*, being chapter 349 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following sections: ss. 30*a*, 30*b*, enacted

Delegation of Minister's powers

30*a*.—(1) The Minister may by order delegate to a planning board of a planning area in a territorial district the authority of the Minister to give consents under section 29 in respect of any land within the planning area and where authority is delegated to a planning board the reference to the Minister in subclause ii of clause *b* and in clause *c* of subsection 1 of section 29 shall be deemed to be a reference to such planning board.

Conditions and withdrawal of delegation

(2) A delegation made by the Minister under subsection 1 may be subject to such conditions as the Minister may by order provide and the Minister may by order withdraw any delegation.

Application of ss. 41 (6, 7, 11, 12), 42 (3-20)

(3) Where the Minister has delegated his authority to a planning board under subsection 1, the provisions of subsections 6, 7, 11 and 12 of section 41 and subsections 3 to 20 of section 42 apply *mutatis mutandis* in respect of applications for consent and such planning board shall be deemed to be a committee of adjustment for the purposes of subsections 6 and 12 of section 29.

Agreements

(4) A planning board as referred to in subsection 3 may enter into agreements imposed as a condition to the giving of a consent in respect of land situate in territory without municipal organization and the provisions of subsection 12*a* of section 29 apply *mutatis mutandis* to any such agreement.

Appointment of district land division committee and delegation

30*b*.—(1) The Minister by order may constitute and appoint one or more district land division committees and may by order delegate thereto the authority of the Minister to give consents under section 29 in respect of

such lands situate in a territorial district as are defined in the order, and, where authority is delegated to a district land division committee, the reference to the Minister in subclause ii of clause *b* and in clause *c* of subsection 1 of section 29 shall be deemed to be a reference to such district land division committee.

Selection of members

(2) The members of a district land division committee to be appointed under subsection 1 shall be selected at a meeting or meetings of the property owners and tenants of land in the district defined in the order made under subsection 1, and the procedure for calling such meeting or meetings, the number of members to be selected and the manner of conducting such selection shall be as prescribed by regulations made by the Minister, which regulations the Minister is authorized to make.

Conditions and withdrawal of delegation

(3) A delegation made by the Minister under subsection 1 may be subject to such conditions as the Minister may by order provide and the Minister may by order withdraw any delegation.

Application of ss. 41 (6-9, 11, 12), 42 (3-20)

(4) Where the Minister has delegated his authority to a district land division committee under subsection 1, the provisions of subsections 6 to 9 and 11 and 12 of section 41 and subsections 3 to 20 of section 42 apply *mutatis mutandis* and such district land division committee is deemed to be a land division committee within the meaning of subsections 6 and 12 of section 29.

Agreements

(5) A district land division committee may enter into agreements imposed as a condition to the giving of a consent in respect of land situate in territory without municipal organization and the provisions of subsection 12*a* of section 29 apply *mutatis mutandis* to any such agreement.

Remuneration

(6) The members of a district land division committee appointed under this section shall be paid such remuneration as is provided for by the order appointing them.

Application of fees

(7) The moneys received by a district land division committee by way of fees in respect of applications made to it shall be paid into the Consolidated Revenue Fund.

Moneys

R.S.O. 1970, c. 349

2. Any moneys required for the purposes of section 30*b* of *The Planning Act*, as enacted by section 1 of this Act, shall, until the 31st day of March, 1977, be paid out of the Consolidated Revenue Fund, and thereafter out of the moneys appropriated therefor by the Legislature.

s. 31 (2), re-enacted

3. Subsection 2 of section 31 of the said Act is repealed and the following substituted therefor:

(2) Notwithstanding any other provision in this Act, the Minister, if he is of the opinion that a committee of adjustment or a land division committee constituted and appointed under section 30 is not giving consents in the manner contemplated by the provisions of this Act, may by order declare that such committee has no further jurisdiction to give consents for the purposes of section 29, and thereafter where the jurisdiction of a committee of adjustment has been so terminated, the Minister or the land division committee, as the case may be, shall act in the place and stead of the committee of adjustment for the giving of consents, and, where the jurisdiction of a land division committee has been so terminated, the Minister shall act in the place and stead of the land division committee. Where jurisdiction to grant consents may be terminated

4.—(1) Subsection 5 of section 32 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 118, section 4, is repealed and the following substituted therefor: s. 32 (5), re-enacted

(5) No notice or hearing is required prior to the making of an order under subsection 1 but the Minister shall give notice of any such order within thirty days of the making thereof in such manner as he considers proper and shall set out in the notice the provisions of subsections 7, 8 and 9. Notice

(2) Subsection 6, subsections 6*a*, 6*b*, 6*c* and 6*d*, as enacted by the Statutes of Ontario, 1973, chapter 168, section 8, and subsections 7 and 8 of the said section 32 are repealed and the following substituted therefor: s. 32 (6-8), re-enacted

(6) The Minister shall cause a certified copy or duplicate of an order made under clause *b* of subsection 1 to be registered in the proper land registry office. Registration

(7) The Minister may, on his own initiative or at the request of any person, by order amend or revoke in whole or in part any order made under subsection 1. Revocation or amendment

(8) Except as provided in subsection 9, the Minister before amending or revoking in whole or in part an order made under subsection 1 shall give notice or cause to be given notice thereof in such manner as he considers proper and shall allow such period of time as he considers appropriate for the submission of representations in respect thereof. Notice

(9) Where an application is made to the Minister to amend or revoke in whole or in part any order made under subsection 1, the Minister may, and on the request of any person shall, request the Municipal Board to hold a hearing on the Hearing by O.M.B.

application and thereupon the Municipal Board shall hold a hearing as to whether the order should be amended or revoked in whole or in part.

Refusal of request by Minister

(10) Notwithstanding subsection 9, where the Minister is of the opinion that a request made under subsection 9 is not made in good faith or is frivolous or is made only for the purpose of delay, he may refuse such request.

Notice of hearing

(11) Where the Minister has requested the Municipal Board to hold a hearing as provided for in subsection 9 notice of the hearing shall be given in such manner and to such persons as the Municipal Board may direct, and the Municipal Board shall hear any submissions that any person may desire to bring to the attention of the Board.

Power of Municipal Board

(12) The Municipal Board after the conclusion of the hearing shall make a decision to either amend or revoke the order in whole or in part or refuse to amend or revoke the order in whole or in part and the Minister shall give effect to the decision of the Board.

Copy of decision

(13) A copy of the decision of the Municipal Board shall be sent to each person who appeared at the hearing and made representations on the matter.

Offence

(14) Every person who contravenes an order of the Minister made under clause *a* of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than $1,000.

Effect of land use order

(15) An order of the Minister made under clause *b* of subsection 1 has the same effect as a by-law passed under section 29.

Prior orders not invalid for deficiency in procedure R.S.O. 1970, c. 349

5.—(1) No order or regulation heretofore made in exercise of the powers conferred under section 32 of *The Planning Act* is invalid by reason only of any deficiency in the making or bringing into force of such order or regulation, including the lack of a hearing at any time prior to the coming into force of this section.

Saving

(2) Subsection 1 does not affect the rights acquired by any person from a judgment or order of any court prior to the day on which this Act comes into force or affect the outcome of any litigation commenced on or before the 26th day of October, 1976.

s. 42 (11, 12), re-enacted

6.—(1) Subsections 11 and 12 of section 42 of the said Act are repealed and the following substituted therefor:

(11) The secretary-treasurer shall send by mail one copy of the decision, certified by him, Notice of decision

(*a*) to the Minister if the Minister has notified the committee by registered mail that he wishes to receive a copy of all decisions of the committee;

(*b*) to the applicant; and

(*c*) to each person who appeared in person or by counsel at the hearing and who filed with the secretary-treasurer a written request for notice of the decision,

together with a notice of the last day for appealing to the Municipal Board.

(12) Where the secretary-treasurer is required to send a copy of the decision to the Minister under subsection 11, he shall also send to the Minister with such copy, the following: Additional material

1. A copy of the application to the committee certified by the secretary-treasurer.

2. A copy of the draft minutes of the hearing by the committee as prepared for adoption by the committee.

3. A copy of all maps or sketches that were before the committee on the hearing of the application and that show the land, building or structure that was the subject-matter of the application.

4. A sworn declaration by the secretary-treasurer that he has complied with the requirements of subsection 11.

(2) Subsection 15 of the said section 42 is repealed and the following substituted therefor: s. 42 (15), re-enacted

(15) On an appeal to the Municipal Board, the Municipal Board shall hold a hearing of which notice shall be given to the applicant, the appellant, the secretary-treasurer of the committee and to such other persons and in such manner as the Municipal Board may determine. Hearing

(3) Subsections 18 and 19 of the said section 42 are repealed and the following substituted therefor: s. 42 (18, 19), re-enacted

(18) When the Municipal Board makes an order on an appeal, the secretary of the Municipal Board shall send a Notice of decision

copy thereof to the applicant, the appellant and the secretary-treasurer of the committee.

Idem

(19) The secretary-treasurer shall file a copy of the order of the Municipal Board with the clerk of the municipality.

Commencement

7. This Act comes into force on the day it receives Royal Assent.

Short title

8. This Act may be cited as *The Planning Amendment Act, 1976*.

An Act to amend
The Planning Act

1st Reading

October 26th, 1976

2nd Reading

November 2nd, 1976

3rd Reading

November 10th, 1976

THE HON. J. R. RHODES
Minister of Housing

1976

Ontario. Legislative Assembly

356

BILL 131 **Government Bill**

3rd Session, 30th Legislature, Ontario
25 Elizabeth II, 1976

An Act respecting Farm Income Stabilization

The Hon. W. Newman
Minister of Agriculture and Food

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Explanatory Note

The Bill provides for the establishment of the Farm Income Stabilization Commission of Ontario and empowers the Commission, subject to the approval of the Lieutenant Governor in Council, to make regulations establishing, amending and revoking voluntary plans for farm income stabilization respecting farm products and governing the terms and conditions of stabilization under any plan.

The Commission, in exercising its powers, may ascertain farm product receipts applicable to any farm product under a plan, may establish a stabilization price or prices respecting any such farm product, and may pay to persons enrolled in the plan the amount, if any, by which the appropriate stabilization price exceeds the appropriate farm product receipt.

The stabilization price, where fixed in relation to a farm product, will be fixed at 95 per cent of the five-year average price adjusted for cash-cost changes. Farm product receipts would be established at a level representing not less than 90 per cent of the five-year average price adjusted for cash-cost changes.

BILL 131 **1976**

An Act respecting Farm Income Stabilization

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpretation

(*a*) "Commission" means the Farm Income Stabilization Commission of Ontario;

(*b*) "farm product" means animals, meats, eggs, poultry, wool, milk, cream, grains, seeds, fruit, vegetables, maple products, honey and tobacco, or any class or part thereof, produced in Ontario;

(*c*) "farm product receipts" means the amount ascertained and prescribed by the Commission for the purposes of a plan as representing, for each unit of farm product, the sum of,

(i) the market price,

(ii) the amount prescribed under clause *c* of subsection 1 of section 6 as a stabilization factor, and

(iii) any other moneys received or receivable by producers respecting the farm product to which the plan applies;

(*d*) "Fund" means the Ontario Farm Income Stabilization Fund;

(*e*) "inspector" means an inspector appointed for the purposes of this Act and includes the chief inspector;

(*f*) "Minister" means the Minister of Agriculture and Food;

(*g*) "plan" means a voluntary plan for farm income stabilization established under subsection 1 of section 6;

(*h*) "regulations" means the regulations made under this Act.

Farm Income Stabilization Commission of Ontario established

2.—(1) There is hereby established a commission to be known as the "Farm Income Stabilization Commission of Ontario", which shall be a corporation without share capital responsible to the Minister.

Composition of Commission

(2) The Commission shall be composed of not fewer than five members who shall be appointed by the Lieutenant Governor in Council.

Chairman and vice-chairman

(3) The Lieutenant Governor in Council may designate one of the members of the Commission as chairman and one as vice-chairman.

Quorum

(4) Three members of the Commission, of whom one shall be the chairman or vice-chairman, constitute a quorum.

Remuneration

(5) Members of the Commission who are not officers in the public service of Ontario shall receive such remuneration and expenses as the Lieutenant Governor in Council from time to time determines.

R.S.O. 1970, c. 89 does not apply

(6) *The Corporations Act* does not apply to the Commission.

Commission a Crown agency
R.S.O. 1970, c. 100

(7) The Commission is a Crown agency within the meaning of *The Crown Agency Act*.

General manager and staff

3.—(1) A general manager of the Commission and such other officers, clerks and servants as are considered necessary from time to time for the proper conduct of the business of the Commission may be appointed under *The Public Service Act*.

R.S.O. 1970, c. 386

R.S.O. 1970, c. 387 to apply

(2) *The Public Service Superannuation Act* applies to the permanent staff of the Commission as if it had been designated by the Lieutenant Governor in Council under section 27 of that Act.

General manager to be chief administrative officer

(3) The general manager of the Commission shall be the chief administrative officer of the Commission.

Professional and technical assistance

(4) The Commission may, subject to the approval of the Minister, engage persons other than those appointed under

subsection 1 to provide professional, technical or other assistance to or on behalf of the Commission.

Appointment of chief inspector and inspectors

4.—(1) The Minister may appoint a chief inspector and such other inspectors as he considers necessary.

Certificate of appointment

(2) The production by an inspector of a certificate of his appointment purporting to be signed by the Minister is admissible in evidence as *prima facie* proof of his appointment without further proof of the signature or authority of the Minister.

Powers of inspector

(3) Subject to subsections 4, 5, 6 and 7, an inspector may, for the purpose of carrying out his duties under this Act,

(*a*) enter any premises, other than a dwelling, owned or occupied by a person enrolled in a plan; and

(*b*) demand the production or furnishing by the person enrolled in the plan of any books, records or documents or extracts therefrom relating to the farm product to which the plan applies.

When powers may be exercised

(4) An inspector shall exercise his powers under subsection 3 only during normal business hours, but nothing in this section affects the issuance and execution of a warrant under section 16 of *The Summary Convictions Act*.

R.S.O. 1970, c. 450

Production and photocopying of records, etc.

(5) Where an inspector demands the production or furnishing of books, records or documents, or extracts therefrom, the person having custody thereof shall produce or furnish them to the inspector and the inspector may detain them for the purpose of photocopying them, provided such photocopying is carried out with reasonable dispatch, and the inspector shall forthwith thereafter return them to the person who produced or furnished them.

Certification of photocopy

(6) Where a book, record, document or extract has been photocopied under subsection 5, a photocopy purporting to be certified by an inspector to be a copy made pursuant to subsection 5 is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way.

Demand to be in writing

(7) Where an inspector makes a demand under clause *b* of subsection 3, the demand shall be in writing and shall include a statement of the nature of the books, records, documents or extracts required.

Obstruction of inspector

(8) No person shall hinder or obstruct an inspector in the course of his duties or furnish him with false information or refuse to furnish him with information.

Offence

(9) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not more than $1,000.

Functions and powers of Commission

5. It is the function of the Commission and it has power,

(*a*) to administer plans of farm income stabilization established by the regulations;

(*b*) to provide for surveys and research relating to farm income stabilization and to obtain statistics for its purposes;

(*c*) to administer this Act and the regulations; and

(*d*) to exercise such powers and perform such duties as are conferred or imposed on it by or under this or any other Act.

Regulations by Commission

6.—(1) Subject to the approval of the Lieutenant Governor in Council, the Commission may make regulations establishing, amending and revoking voluntary plans for farm income stabilization respecting farm products and governing the terms and conditions of stabilization under any plan and, without restricting the generality of the foregoing, may make regulations,

(*a*) designating a farm product to which a plan applies;

(*b*) ascertaining and prescribing, from time to time, the farm product receipts effective for a farm product to which a plan applies;

(*c*) prescribing, from time to time, the stabilization factor to be included in the farm product receipts effective for a farm product which shall be,

R.S.C. 1970. c. A-9

(i) in the case of a farm product named in subsection 1 of section 2 of the *Agricultural Stabilization Act* (Canada), the moneys paid or payable per unit of farm product under that Act,

(ii) in the case of a farm product designated as an agricultural commodity under the

Agricultural Stabilization Act (Canada), where the percentage prescribed under paragraph *b* of subsection 1 of section 8.2 of that Act is less than ninety, the moneys that would have been paid or payable per unit of farm product under that Act if the percentage prescribed had been ninety, R.S.C. 1970, c. A-9

(iii) in the case of a farm product designated as an agricultural commodity under the *Agricultural Stabilization Act* (Canada), where the percentage prescribed under paragraph *b* of subsection 1 of section 8.2 of that Act is ninety or greater, the moneys paid or payable per unit of farm product under that Act, or

(iv) in the case of a farm product other than those referred to in subclauses i, ii and iii, an amount that, in the opinion of the Commission, represents the amount of money that would have been payable per unit of farm product if the farm product had been designated as an agricultural commodity under the *Agricultural Stabilization Act* (Canada) and the percentage prescribed under paragraph *b* of subsection 1 of section 8.2 of that Act were ninety;

(*d*) ascertaining and prescribing, from time to time, a base price respecting the farm product to which a plan applies representing the average price thereof at representative markets as determined by the Commission for the five years immediately preceding the year prescribed in the plan;

(*e*) establishing, from time to time, a stabilization price or prices respecting a farm product to which a plan applies obtained by adjusting 95 per cent of the base price thereof by an index calculated in such manner as the Commission may prescribe in the regulations to reflect the estimated cash-cost of production of the farm product in the year for which the stabilization price or prices are established as compared with the average cash-cost of production for the five years immediately preceding that year;

(*f*) fixing, from time to time, the fees to be paid by any person enrolled in a plan, and prescribing the times and method of payment;

(*g*) prescribing the maximum level of production or marketing for which a person enrolled in a plan is eligible to receive payments under the plan;

(*h*) prescribing the minimum level of production or marketing by a person to be eligible to enrol or continue to be enrolled in a plan;

(*i*) prescribing, in respect of a farm product to which a plan applies, the proportion of gross income derived from farming that a person is required to have to be eligible to enrol or continue to be enrolled in the plan;

(*j*) prescribing terms and conditions to be complied with by applicants for enrolment in a plan;

(*k*) prescribing the length of the term of enrolment and conditions of enrolment to be complied with by persons enrolled in a plan;

(*l*) requiring applicants for enrolment in a plan or any person enrolled in a plan to furnish such information, statements or reports as the Commission from time to time requires;

(*m*) prescribing the time or times at which applications for enrolment in a plan may be made;

(*n*) prescribing the terms and conditions under which a person enrolled in a plan may withdraw from participation in the plan;

(*o*) providing for the adjustment of fees payable by any person enrolled in a plan or the adjustment of payments thereto, where the amount of farm product for which fees were paid varies from the amount otherwise eligible for payment or where the person receives moneys respecting the farm product that are not taken into account in calculating the farm product receipts prescribed for the farm product;

(*p*) prescribing the time or times at which payments shall be made under subsection 4;

(*q*) prescribing forms and providing for their use and requiring any information given in a form to be verified by statutory declaration.

(2) No person who is not ordinarily a resident of Ontario is eligible to enrol in a plan. Eligibility for enrolment

(3) The Commission shall fix fees to be paid by a person enrolled in a plan at a level that, in its opinion, will return one-third of the amount necessary to maintain the Fund in respect of the farm product for which fees are fixed over the length of the term of enrolment prescribed in the plan. Level at which fees to be fixed

(4) Where, under a plan, the stabilization price exceeds the farm product receipts, the Commission, subject to the regulations, shall, at the time or times prescribed in the regulations, pay to those persons enrolled in the plan the difference between the stabilization price and the farm product receipts respecting any farm product under the plan marketed by such persons. Payment to persons enrolled in plan

(5) Where, under a plan, in any year, the stabilization price exceeds a cost of production figure that is ascertained and prescribed by the Commission, and which may be prescribed in the regulations, the stabilization price, for the purposes of subsection 4, shall be deemed to be equal to that cost of production figure. Stabilization price deemed to be equal to cost of production figure

7. The Commission may at any time consult with or conduct such discussions with any local board under *The Farm Products Marketing Act*, any marketing board under *The Milk Act* or any other organization or group of producers as the Commission considers proper respecting the terms of any plan or proposed plan. Power of Commission R.S.O. 1970, cc. 162, 173

8.—(1) The Commission may, after a hearing, cancel the enrolment of any person enrolled in a plan where the Commission finds that he or any other person under his control, in his employ or associated with him in producing the farm product for which he is enrolled, has, Refusal of payment after hearing

(*a*) contravened subsection 8 of section 4;

(*b*) knowingly supplied the Commission with information respecting such farm product that is false or calculated to mislead and that may affect payments to him under the plan; or

(*c*) ceased to be qualified to be enrolled in the plan,

and may make such order as to repayment of the whole or any part of fees paid or the payment of any benefits that might otherwise accrue under this Act as the Commission considers just and proper.

1971, c. 47, applies

(2) *The Statutory Powers Procedure Act, 1971* applies to a hearing held under subsection 1.

Person deemed to have withdrawn from enrolment

(3) Where a person who has been enrolled in a plan fails to pay fees in the amount and manner prescribed in the regulations, he shall be deemed to have withdrawn from enrolment.

Enrolment or refusal of enrolment

(4) Where a person who was enrolled in a plan has withdrawn or is deemed to have withdrawn from enrolment in the plan or has had his enrolment cancelled, the Commission, subject to the regulations, may at any time enrol or refuse to enrol that person in that or any other plan.

Fees to be paid to Commission

9.—(1) All fees fixed in respect of a plan shall be paid to the Commission.

Payment to Commission

(2) The Lieutenant Governor in Council may authorize the Treasurer of Ontario to pay to the Commission such amounts out of the moneys appropriated therefor by the Legislature as the Lieutenant Governor in Council may determine.

Ontario Farm Income Stabilization Fund

10.—(1) The Commission shall establish and maintain in a chartered bank or the Province of Ontario Savings Office a fund to be known as the "Ontario Farm Income Stabilization Fund", to which shall be credited the moneys received by the Commission under sections 9 and 11.

Books of account

(2) The Commission shall maintain separate books of account respecting each farm product to which a plan applies.

Payments out of Fund

(3) The Commission shall pay out of the Fund all moneys required for,

(*a*) the payment of moneys under any plan; and

(*b*) the repayment of loans made under section 11.

Loans to Commission

11. The Treasurer of Ontario, with the approval of the Lieutenant Governor in Council and upon such terms and conditions as the Lieutenant Governor in Council may prescribe, may make loans to the Commission and may acquire and hold as evidence thereof bonds, debentures or notes or other evidences of indebtedness of the Commission.

Surplus

12. The Commission shall, at the discretion of the Treasurer of Ontario, pay into the Consolidated Revenue

Fund any surplus moneys in the Fund that are not necessary for the current requirements of the Commission and section 16 of *The Financial Administration Act* applies thereto. R.S.O. 1970, c. 166

13.—(1) The moneys required for the purpose of defraying the operating expenses of the Commission shall be paid out of moneys appropriated by the Legislature for that purpose. Moneys

(2) Notwithstanding subsection 1, the moneys required for the purposes of this Act shall, from the date of the coming into force of this Act until the 31st day of March, 1977, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature. Idem

14. The accounts and financial transactions of the Commission shall be audited annually by the Provincial Auditor, and a report of the audit shall be made to the Commission and to the Minister. Audit

15.—(1) The Commission shall make an annual report of the affairs of the Commission to the Minister. Annual report

(2) The Minister shall submit the annual report to the Lieutenant Governor in Council and shall then lay the report before the Legislative Assembly if it is in session or, if not, at the next ensuing session. Tabling

16. The Minister may, with the approval of the Lieutenant Governor in Council, enter into agreements with the Government of Canada to further the carrying out of the intent and purpose of this Act. Agreements with Government of Canada

17. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

18. This Act may be cited as *The Farm Income Stabilization Act, 1976*. Short title

An Act respecting
Farm Income Stabilization

1st Reading

October 26th, 1976

2nd Reading

3rd Reading

THE HON. W. NEWMAN
Minister of Agriculture and Food

(*Government Bill*)

1976

Ontario. Legislative

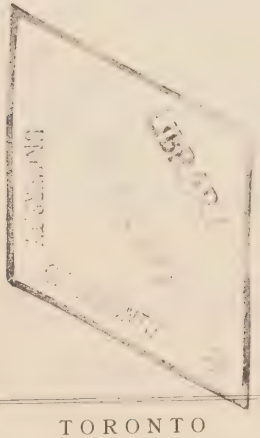
BILL 131

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications

An Act respecting Farm Income Stabilization

THE HON. W. NEWMAN
Minister of Agriculture and Food



TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 131 **1976**

An Act respecting Farm Income Stabilization

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpretation

(*a*) "Commission" means the Farm Income Stabilization Commission of Ontario;

(*b*) "farm product" means animals, meats, eggs, poultry, wool, milk, cream, grains, seeds, fruit, vegetables, maple products, honey and tobacco, or any class or part thereof, produced in Ontario;

(*c*) "farm product receipts" means the amount ascertained and prescribed by the Commission for the purposes of a plan as representing, for each unit of farm product, the sum of,

(i) the market price,

(ii) the amount prescribed under clause *c* of subsection 1 of section 6 as a stabilization factor, and

(iii) any other moneys received or receivable by producers respecting the farm product to which the plan applies;

(*d*) "Fund" means the Ontario Farm Income Stabilization Fund;

(*e*) "inspector" means an inspector appointed for the purposes of this Act and includes the chief inspector;

(*f*) "Minister" means the Minister of Agriculture and Food;

(*g*) "plan" means a voluntary plan for farm income stabilization established under subsection 1 of section 6;

(*h*) "regulations" means the regulations made under this Act.

Farm Income Stabilization Commission of Ontario established

2.—(1) There is hereby established a commission to be known as the "Farm Income Stabilization Commission of Ontario", which shall be a corporation without share capital responsible to the Minister.

Composition of Commission

(2) The Commission shall be composed of not fewer than five members who shall be appointed by the Lieutenant Governor in Council.

Nomination for appointment

(3) Three members may be appointed, one to represent each of the Christian Farmers Federation, the National Farmers Union and the Ontario Federation of Agriculture, on the following basis:

1. Each such organization may, in every year, before the 31st day of March, nominate to the Lieutenant Governor in Council a person for membership on the Commission.

2. The Lieutenant Governor in Council shall appoint such nominees as members of the Commission before the 30th day of April in that year to hold office until the 29th day of April in the year next following.

Chairman and vice-chairman

(4) The Lieutenant Governor in Council may designate one of the members of the Commission as chairman and one as vice-chairman.

Quorum

(5) Three members of the Commission, of whom one shall be the chairman or vice-chairman, constitute a quorum.

Remuneration

(6) Members of the Commission who are not officers in the public service of Ontario shall receive such remuneration and expenses as the Lieutenant Governor in Council from time to time determines.

R.S.O. 1970, c. 89 does not apply

(7) *The Corporations Act* does not apply to the Commission.

Commission a Crown agency
R.S.O. 1970, c. 100

(8) The Commission is a Crown agency within the meaning of *The Crown Agency Act*.

(9) The failure or refusal to nominate a person by any of the organizations referred to in subsection 3, or the consequent lack of appointment of a person to represent such organization, or the failure or refusal of any member appointed in accordance with subsection 3 to act, does not affect the status of the Commission, the carrying out of its powers and duties under this Act or the validity of any order, direction or regulation made by it. Powers, etc., of Commission not affected

3.—(1) A general manager of the Commission and such other officers, clerks and servants as are considered necessary from time to time for the proper conduct of the business of the Commission may be appointed under *The Public Service Act*. General manager and staff R.S.O. 1970, c. 386

(2) *The Public Service Superannuation Act* applies to the permanent staff of the Commission as if it had been designated by the Lieutenant Governor in Council under section 27 of that Act. R.S.O. 1970, c. 387 to apply

(3) The general manager of the Commission shall be the chief administrative officer of the Commission. General manager to be chief administrative officer

(4) The Commission may, subject to the approval of the Minister, engage persons other than those appointed under subsection 1 to provide professional, technical or other assistance to or on behalf of the Commission. Professional and technical assistance

4.—(1) The Minister may appoint a chief inspector and such other inspectors as he considers necessary. Appointment of chief inspector and inspectors

(2) The production by an inspector of a certificate of his appointment purporting to be signed by the Minister is admissible in evidence as *prima facie* proof of his appointment without further proof of the signature or authority of the Minister. Certificate of appointment

(3) Subject to subsections 4, 5, 6 and 7, an inspector may, for the purpose of carrying out his duties under this Act, Powers of inspector

(*a*) enter any premises, other than a dwelling, owned or occupied by a person enrolled in a plan; and

(*b*) demand the production or furnishing by the person enrolled in the plan of any books, records or documents or extracts therefrom relating to the farm product to which the plan applies.

When powers may be exercised

(4) An inspector shall exercise his powers under subsection 3 only during normal business hours, but nothing in this section affects the issuance and execution of a warrant under section 16 of *The Summary Convictions Act*.

R.S.O. 1970, c. 450

Production and photocopying of records, etc.

(5) Where an inspector demands the production or furnishing of books, records or documents, or extracts therefrom, the person having custody thereof shall produce or furnish them to the inspector and the inspector may detain them for the purpose of photocopying them, provided such photocopying is carried out with reasonable dispatch, and the inspector shall forthwith thereafter return them to the person who produced or furnished them.

Certification of photocopy

(6) Where a book, record, document or extract has been photocopied under subsection 5, a photocopy purporting to be certified by an inspector to be a copy made pursuant to subsection 5 is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way.

Demand to be in writing

(7) Where an inspector makes a demand under clause *b* of subsection 3, the demand shall be in writing and shall include a statement of the nature of the books, records, documents or extracts required.

Obstruction of inspector

(8) No person shall hinder or obstruct an inspector in the course of his duties or furnish him with false information or refuse to furnish him with information.

Offence

(9) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not more than $1,000.

Functions and powers of Commission

5. It is the function of the Commission and it has power,

(*a*) to administer plans of farm income stabilization established by the regulations;

(*b*) to provide for surveys and research relating to farm income stabilization and to obtain statistics for its purposes;

(*c*) to administer this Act and the regulations; and

(*d*) to exercise such powers and perform such duties as are conferred or imposed on it by or under this or any other Act.

6.—(1) Subject to the approval of the Lieutenant Governor in Council, the Commission may make regulations establishing, amending and revoking voluntary plans for farm income stabilization respecting farm products and governing the terms and conditions of stabilization under any plan and, without restricting the generality of the foregoing, may make regulations, Regulations by Commission

(*a*) designating a farm product to which a plan applies;

(*b*) ascertaining and prescribing, from time to time, the farm product receipts effective for a farm product to which a plan applies;

(*c*) prescribing, from time to time, the stabilization factor to be included in the farm product receipts effective for a farm product which shall be,

(i) in the case of a farm product named in subsection 1 of section 2 of the *Agricultural Stabilization Act* (Canada), the moneys paid or payable per unit of farm product under that Act, R.S.C. 1970, c. A-9

(ii) in the case of a farm product designated as an agricultural commodity under the *Agricultural Stabilization Act* (Canada), where the percentage prescribed under paragraph *b* of subsection 1 of section 8.2 of that Act is less than ninety, the moneys that would have been paid or payable per unit of farm product under that Act if the percentage prescribed had been ninety,

(iii) in the case of a farm product designated as an agricultural commodity under the *Agricultural Stabilization Act* (Canada), where the percentage prescribed under paragraph *b* of subsection 1 of section 8.2 of that Act is ninety or greater, the moneys paid or payable per unit of farm product under that Act, or

(iv) in the case of a farm product other than those referred to in subclauses i, ii and iii, an amount that, in the opinion of the Commission, represents the amount of money that would have been payable per unit of farm product if the farm product had been designated as an agricultural commodity under the *Agricultural Stabilization Act*

(Canada) and the percentage prescribed under paragraph *b* of subsection 1 of section 8.2 of that Act were ninety;

(*d*) ascertaining and prescribing, from time to time, a base price respecting the farm product to which a plan applies representing the average price thereof at representative markets as determined by the Commission for the five years immediately preceding the year prescribed in the plan;

(*e*) establishing, from time to time, a stabilization price or prices respecting a farm product to which a plan applies obtained by adjusting 95 per cent of the base price thereof by an index calculated in such manner as the Commission may prescribe in the regulations to reflect the estimated cash-cost of production of the farm product in the year for which the stabilization price or prices are established as compared with the average cash-cost of production for the five years immediately preceding that year;

(*f*) fixing, from time to time, the fees to be paid by any person enrolled in a plan, and prescribing the times and method of payment;

(*g*) prescribing the maximum level of production or marketing for which a person enrolled in a plan is eligible to receive payments under the plan;

(*h*) prescribing the minimum level of production or marketing by a person to be eligible to enrol or continue to be enrolled in a plan;

(*i*) prescribing, in respect of a farm product to which a plan applies, the proportion of gross income derived from farming that a person is required to have to be eligible to enrol or continue to be enrolled in the plan;

(*j*) prescribing terms and conditions to be complied with by applicants for enrolment in a plan;

(*k*) prescribing the length of the term of enrolment and conditions of enrolment to be complied with by persons enrolled in a plan;

(*l*) requiring applicants for enrolment in a plan or any person enrolled in a plan to furnish such

information, statements or reports as the Commission from time to time requires;

(*m*) prescribing the time or times at which applications for enrolment in a plan may be made;

(*n*) prescribing the terms and conditions under which a person enrolled in a plan may withdraw from participation in the plan;

(*o*) providing for the adjustment of fees payable by any person enrolled in a plan or the adjustment of payments thereto, where the amount of farm product for which fees were paid varies from the amount otherwise eligible for payment or where the person receives moneys respecting the farm product that are not taken into account in calculating the farm product receipts prescribed for the farm product;

(*p*) prescribing the time or times at which payments shall be made under subsection 4;

(*q*) prescribing forms and providing for their use and requiring any information given in a form to be verified by statutory declaration.

Eligibility for enrolment

(2) No person who is not ordinarily a resident of Ontario is eligible to enrol in a plan.

Level at which fees to be fixed

(3) The Commission shall fix fees to be paid by a person enrolled in a plan at a level that, in its opinion, will return one-third of the amount necessary to maintain the Fund in respect of the farm product for which fees are fixed over the length of the term of enrolment prescribed in the plan.

Payment to persons enrolled in plan

(4) Where, under a plan, the stabilization price exceeds the farm product receipts, the Commission, subject to the regulations, shall, at the time or times prescribed in the regulations, pay to those persons enrolled in the plan the difference between the stabilization price and the farm product receipts respecting any farm product under the plan marketed by such persons.

Stabilization price deemed to be equal to cost of production figure

(5) Where, under a plan, in any year, the stabilization price exceeds a cost of production figure that is ascertained and prescribed by the Commission, and which may be prescribed in the regulations, the stabilization price, for

the purposes of subsection 4, shall be deemed to be equal to that cost of production figure.

Negotiation

7.—(1) The Commission shall, respecting any proposed plan or proposed amendments to a plan, negotiate with,

R.S.O. 1970, cc. 162, 273

(*a*) any local board under *The Farm Products Marketing Act* or marketing board under *The Milk Act* affected thereby;

(*b*) the Christian Farmers Federation;

(*c*) the National Farmers Union;

(*d*) the Ontario Federation of Agriculture; and

(*e*) such other organizations or groups of producers as the Commission considers proper.

Powers under s. 6 not affected by failure to negotiate

(2) The failure or refusal to negotiate or continue negotiation by any of the organizations referred to in clauses *a*, *b*, *c*, *d* and *e* of subsection 1 does not affect the exercise by the Commission or the Lieutenant Governor in Council of the powers contained in section 6.

Refusal of payment after hearing

8.—(1) The Commission may, after a hearing, cancel the enrolment of any person enrolled in a plan where the Commission finds that he or any other person under his control, in his employ or associated with him in producing the farm product for which he is enrolled, has,

(*a*) contravened subsection 8 of section 4;

(*b*) knowingly supplied the Commission with information respecting such farm product that is false or calculated to mislead and that may affect payments to him under the plan; or

(*c*) ceased to be qualified to be enrolled in the plan,

and may make such order as to repayment of the whole or any part of fees paid or the payment of any benefits that might otherwise accrue under this Act as the Commission considers just and proper.

1971, c. 47, applies

(2) *The Statutory Powers Procedure Act, 1971* applies to a hearing held under subsection 1.

Person deemed to have withdrawn from enrolment

(3) Where a person who has been enrolled in a plan fails to pay fees in the amount and manner prescribed

in the regulations, he shall be deemed to have withdrawn from enrolment.

Enrolment or refusal of enrolment

(4) Where a person who was enrolled in a plan has withdrawn or is deemed to have withdrawn from enrolment in the plan or has had his enrolment cancelled, the Commission, subject to the regulations, may at any time enrol or refuse to enrol that person in that or any other plan.

Fees to be paid to Commission

9.—(1) All fees fixed in respect of a plan shall be paid to the Commission.

Payment to Commission

(2) The Lieutenant Governor in Council may authorize the Treasurer of Ontario to pay to the Commission such amounts out of the moneys appropriated therefor by the Legislature as the Lieutenant Governor in Council may determine.

Ontario Farm Income Stabilization Fund

10.—(1) The Commission shall establish and maintain in a chartered bank or the Province of Ontario Savings Office a fund to be known as the "Ontario Farm Income Stabilization Fund", to which shall be credited the moneys received by the Commission under sections 9 and 11.

Books of account

(2) The Commission shall maintain separate books of account respecting each farm product to which a plan applies.

Payments out of Fund

(3) The Commission shall pay out of the Fund all moneys required for,

(*a*) the payment of moneys under any plan; and

(*b*) the repayment of loans made under section 11.

Loans to Commission

11. The Treasurer of Ontario, with the approval of the Lieutenant Governor in Council and upon such terms and conditions as the Lieutenant Governor in Council may prescribe, may make loans to the Commission and may acquire and hold as evidence thereof bonds, debentures or notes or other evidences of indebtedness of the Commission.

Surplus

12. The Commission shall, at the discretion of the Treasurer of Ontario, pay into the Consolidated Revenue Fund any surplus moneys in the Fund that are not necessary for the current requirements of the Commission and section 16 of *The Financial Administration Act* applies thereto.

R.S.O. 1970, c. 166

Moneys

13.—(1) The moneys required for the purpose of defraying the operating expenses of the Commission shall be paid out of moneys appropriated by the Legislature for that purpose.

Idem

(2) Notwithstanding subsection 1, the moneys required for the purposes of this Act shall, from the date of the coming into force of this Act until the 31st day of March, 1977, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

Audit

14. The accounts and financial transactions of the Commission shall be audited annually by the Provincial Auditor, and a report of the audit shall be made to the Commission and to the Minister.

Annual report

15.—(1) The Commission shall make an annual report of the affairs of the Commission to the Minister.

Tabling

(2) The Minister shall submit the annual report to the Lieutenant Governor in Council and shall then lay the report before the Legislative Assembly if it is in session or, if not, at the next ensuing session.

Agreements with Government of Canada

16. The Minister may, with the approval of the Lieutenant Governor in Council, enter into agreements with the Government of Canada to further the carrying out of the intent and purpose of this Act.

Commencement

17. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

18. This Act may be cited as *The Farm Income Stabilization Act, 1976*.

An Act respecting
Farm Income Stabilization

1st Reading

October 26th, 1976

2nd Reading

November 25th, 1976

3rd Reading

December 14th, 1976

THE HON. W. NEWMAN
Minister of Agriculture and Food

1976

Ontario. Legislative Assembly

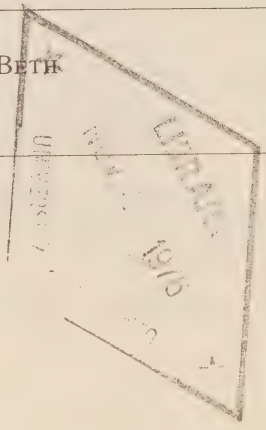
BILL 132 **Government Bill**

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications

An Act to amend The Coroners Act, 1972

THE HON. JOHN P. MACBETH
Solicitor General



TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

SECTION 1.—Subsection 1. Subsection 2 of section 9 of the Act now provides, in part, as follows:

(2) *Where a person dies while resident or an in-patient in,*

. . . . .

(*h*) *a nursing home to which The Nursing Homes Act, 1972 applies*;

. . . . .

the person in charge of the hospital, institution or home shall immediately give notice of the death to a coroner, and the coroner shall investigate the circumstances of the death and, if as a result of the investigation he is of the opinion that an inquest ought to be held, he shall issue his warrant and hold an inquest upon the body.

The reporting and investigation of a death in a nursing home will no longer be mandatory. Such reporting and investigation will be mandatory in the case of a death in a facility designated under *The Developmental Services Act, 1974*.

Subsection 2. Complementary to subsection 1.

BILL 132 **1976**

An Act to amend The Coroners Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause *h* of subsection 2 of section 9 of *The Coroners Act, 1972*, being chapter 98, is repealed and the following substituted therefor: s. 9 (2) (*h*), re-enacted

(*h*) a facility designated under *The Developmental Services Act, 1974*.

(2) Subsection 2 of the said section 9 is amended by inserting after "hospital" in the twenty-second line "facility". s. 9 (2), amended

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. This Act may be cited as *The Coroners Amendment Act, 1976*. Short title

BILL 132

An Act to amend
The Coroners Act, 1972

1st Reading

October 26th, 1976

2nd Reading

3rd Reading

THE HON. JOHN P. MACBETH
Solicitor General

(Government Bill)

1976

Ontario. Legislative Assembly

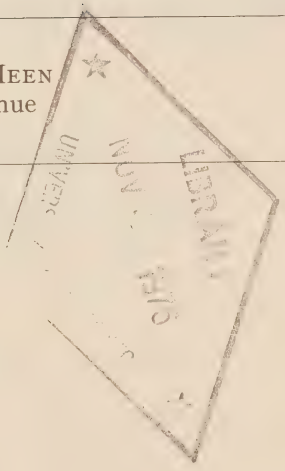
BILL 133 **Government Bill**

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications

An Act to amend The Assessment Act

THE HON. A. K. MEEN
Minister of Revenue



TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

General

The amendments proposed in the Bill will delay for one year, until 1977, the return of assessment at full market value throughout Ontario. This delay will preserve current levels of assessment and existing procedures under *The Assessment Act* during the time the Property Tax Reform Commission is holding hearings and preparing its report on the Treasurer's 1976 Budget proposals with respect to property tax reform in Ontario. The delay will also allow time for a response to the Commission's report by any interested parties, and for the preparation of legislation based on the Commission's report and the response to it.

Section 1. The re-enactment of section 86 adds clause *c* to the section and adds a reference to the year 1976 in the proviso to the section. Otherwise, the section remains the same, and the amendments ensure that the levels of assessment in 1976 for taxation in 1977 will not change from the assessments made in 1975.

BILL 133 **1976**

An Act to amend The Assessment Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 86 of *The Assessment Act*, being chapter 32 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1974, chapter 41, section 25, is repealed and the following substituted therefor: s. 86, re-enacted

86. Subject to the other provisions of this Act and to the alterations, corrections, additions and amendments authorized by this Act, and for the purpose of any special or general Act, Roll to be returned in 1974, 1975 and 1976

(*a*) the assessment roll of a municipality to be returned in the year 1974 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1970 for taxation in the year 1971 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1974;

(*b*) the assessment roll of a municipality to be returned in the year 1975 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1974 for taxation in the year 1975 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1975; and

(*c*) the assessment roll of a municipality to be returned in the year 1976 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1975 for taxation in the year 1976 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1976,

provided that where the assessor is of the opinion that an assessment to be shown on the assessment roll to be returned for the year 1974, 1975 or 1976 is inequitable with respect to the assessment of similar real property in the vicinity, the assessor may alter the value of the assessment to the extent necessary to make the assessment equitable with the assessment of such similar real property.

s. 95, re-enacted

2. Section 95 of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 79, section 13, and amended by 1973, chapter 148, section 3 and 1974, chapter 41, section 30, is repealed and the following substituted therefor:

Idem

95. Section 90 ceases to be in force on the 20th day of December, 1977, but shall continue in force for the purpose of any pending complaint, appeal, proceeding or action which will affect taxes for the years 1971 to and including 1977.

s. 96 (1), amended

3.—(1) Subsection 1 of section 96 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 41, section 31, is amended by striking out "1976" in the third line and inserting in lieu thereof "1977".

s. 96 (2), amended

(2) Subsection 2 of the said section 96 is amended by striking out "1977" in the second line and inserting in lieu thereof "1978".

Commencement

4.—(1) This Act, except subsection 1 of section 3, comes into force on the 1st day of December, 1976.

Idem

(2) Subsection 1 of section 3 shall be deemed to have come into force on the 1st day of January, 1976.

Short title

5. This Act may be cited as *The Assessment Amendment Act, 1976*.

SECTIONS 2 AND 3. The amendments are consequential on the changes made by section 1 of the Bill.

Sections 95 and 96 as they presently appear are set out below:

95. Section 90 ceases to be in force on the 21st day of December, 1976, but shall continue in force for the purpose of any pending complaint, appeal, proceeding or action which will affect taxes for the years 1971 to and including 1976.

96.—(1) Subject to section 97, subsection 6 of section 33 continues to be not in force and remains inoperative until the 1st day of January, 1976.

(2) Section 71 continues to be not in force and remains inoperative until the 1st day of January, 1977.

An Act to amend
The Assessment Act

1st Reading

October 26th, 1976

2nd Reading

3rd Reading

THE HON. A. K. MEEN
Minister of Revenue

(*Government Bill*)

1976

Ontario. Legislative Assembly
Government Publications

BILL 133

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

An Act to amend The Assessment Act

THE HON. A. K. MEEN
Minister of Revenue

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 133 **1976**

An Act to amend The Assessment Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 86 of *The Assessment Act*, being chapter 32 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1974, chapter 41, section 25, is repealed and the following substituted therefor: s. 86, re-enacted

86. Subject to the other provisions of this Act and to the alterations, corrections, additions and amendments authorized by this Act, and for the purpose of any special or general Act, Roll to be returned in 1974, 1975 and 1976

(*a*) the assessment roll of a municipality to be returned in the year 1974 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1970 for taxation in the year 1971 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1974;

(*b*) the assessment roll of a municipality to be returned in the year 1975 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1974 for taxation in the year 1975 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1975; and

(*c*) the assessment roll of a municipality to be returned in the year 1976 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1975 for taxation in the year 1976 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1976,

provided that where the assessor is of the opinion that an assessment to be shown on the assessment roll to be returned for the year 1974, 1975 or 1976 is inequitable with respect to the assessment of similar real property in the vicinity, the assessor may alter the value of the assessment to the extent necessary to make the assessment equitable with the assessment of such similar real property.

s. 95, re-enacted

2. Section 95 of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 79, section 13, and amended by 1973, chapter 148, section 3 and 1974, chapter 41, section 30, is repealed and the following substituted therefor:

Idem

95. Section 90 ceases to be in force on the 20th day of December, 1977, but shall continue in force for the purpose of any pending complaint, appeal, proceeding or action which will affect taxes for the years 1971 to and including 1977.

s. 96 (1), amended

3.—(1) Subsection 1 of section 96 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 41, section 31, is amended by striking out "1976" in the third line and inserting in lieu thereof "1977".

s. 96 (2), amended

(2) Subsection 2 of the said section 96 is amended by striking out "1977" in the second line and inserting in lieu thereof "1978".

Commencement

4.—(1) This Act, except subsection 1 of section 3, comes into force on the 1st day of December, 1976.

Idem

(2) Subsection 1 of section 3 shall be deemed to have come into force on the 1st day of January, 1976.

Short title

5. This Act may be cited as *The Assessment Amendment Act, 1976*.

An Act to amend
The Assessment Act

1st Reading

October 26th, 1976

2nd Reading

November 2nd, 1976

3rd Reading

November 2nd, 1976

The Hon. A. K. Meen
Minister of Revenue

1976

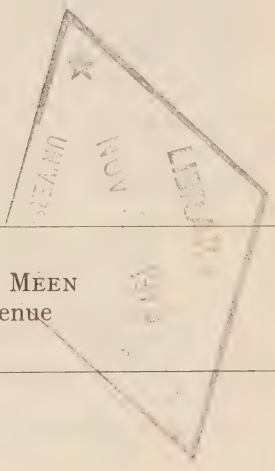
Ontario. Legislative Assembly

BILL 134 **Government Bill**

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications

An Act to amend The Gift Tax Act, 1972



THE HON. A. K. MEEN
Minister of Revenue

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

Section 1.—Subsection 1. The amendments proposed in this section are designed to bring definitions now in the Act into conformity with the definitions of child and common law wife contained in proposals made in *The Succession Law Reform Act, 1976* (Bill 85 now before the Legislature). The definitions do not literally correspond with those contained in Bill 85 because of the differences in purpose between that Bill and *The Gift Tax Act, 1972*, and because the expressions are differently defined in different parts of Bill 85.

Paragraphs 5 and 24 of section 1 of *The Gift Tax Act, 1972* presently read as follows:

> 5. *"common law wife" means a woman who establishes to the satisfaction of the Minister that she had, for a number of years immediately prior to the making of a gift by a donor with whom she was residing, been publicly represented by the donor as his wife, and "common law husband" has a corresponding meaning;*
>
> . . . . . .
>
> 24. *"spouse" includes a common law wife or common law husband.*

BILL 134 **1976**

An Act to amend The Gift Tax Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 1 of *The Gift Tax Act, 1972*, being chapter 12, as amended by the Statutes of Ontario, 1973, chapter 165, section 1, is further amended by adding thereto the following paragraph: s. 1, amended

4*a*. "child" means a natural child born within or outside marriage, subject to section 83 of *The Child Welfare Act* (which relates to the effect of adoption), and includes, R.S.O. 1970, c. 64

(i) a stepchild, and

(ii) a person who is treated as a member of the family of a person who is not his natural parent and who is not being treated as a member of the family of either of his natural parents or of parents by whom he has been legally adopted,

but "child" does not include a foster child placed in the home of a person not the natural parent of that foster child pursuant to an agreement with a public agency.

(2) Paragraph 5 of the said section 1 is repealed and the following substituted therefor: s. 1, par. 5, re-enacted

5. "common law spouse" means either of a man and a woman who, not being married to each other,

i. are living together as husband and wife and have so lived together for a continuous period of not less than two years prior to any time at which the determination of their relationship is relevant for the purposes of this Act, or

ii. are living together as husband and wife in a relationship of some permanence where there is a person living with them who is their child.

s. 1, par. 24, re-enacted

(3) Paragraph 24 of the said section 1 is repealed and the following substituted therefor:

24. "spouse" includes a common law spouse.

s. 2 (1) (*a*), re-enacted

2. Clause *a* of subsection 1 of section 2 of the said Act is repealed and the following substituted therefor:

(*a*) persons are connected by blood relationship if one is a lineal descendant of the other or if one is the brother or sister of the other, and in determining any such descent or relationship, a person who is a child for the purposes of this Act shall be deemed to be legitimately born of the person or persons of whom he is a child for the purposes of this Act.

s. 10 (1), amended

3. Subsection 1 of section 10 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 165, section 2, 1975, chapter 15, section 1 and 1976, chapter 11, section 1, is further amended by adding thereto the following clause:

(*ga*) the value of any beneficial interest given by a donor to his spouse by way of a gift made by the creation of a settlement or the transfer of property to a trust, if such settlement or trust,

(i) is made in writing,

(ii) contains no provision by which any part of the settlement or trust can be revoked, altered or amended in any way by any person,

(iii) provides that, during the lifetime of the donor's spouse, all property or benefits received by the trustee or trustees as income of, or determined by the trustee or trustees to be income of, such settlement or trust shall be held for or paid to only the donor's spouse or such spouse's executors or administrators, and

(iv) immediately, absolutely and indefeasibly vests the whole beneficial interest given by the donor only in persons who are alive at the time of the gift and whose interest under

SECTION 2. The re-enactment of clause *a* is consequential on the definitions proposed in the amendments in section 1 of the Bill. The provisions of the Act that are to be replaced by this amendment read:

2.—(1) For the purposes of this Act,

(a) persons are connected by blood relationship if one is a lineal descendant of the other or one is the brother or sister of the other;

. . . . .

SECTION 3. The amendment will enable a donor to give to his spouse gifts exempt from tax by way of a trust or settlement. The Act presently denies exemption where a gift is made to a spouse by way of the creation of a settlement or the transfer of property to a trust. The exemption proposed in the amendment applies only to the value of the interest given to the spouse and only if the trust or settlement is in writing, is irrevocable, provides that all of the income earned by the trust during the lifetime of the spouse will belong to the spouse, and does not create interests in the property given in favour of unborn persons or persons whose interest is not absolutely vested in them. The value of any interest given to the beneficiary of a trust, other than the donor's spouse will be liable to tax after making the deductions provided for in section 11 of the Act.

SECTION 4. The subsection proposed to be added by the amendment will make the property in Ontario of those who receive gifts from a donor in Ontario but are not resident in Ontario liable to tax if the donor, on whom the primary liability for tax is imposed by the Act, does not pay the tax. The previous six subsections of section 34 impose a secondary liability for tax personally upon donees who are resident in Ontario at the time a gift is made to them. The new subsection, within the limits constitutionally imposed on the Province, extends the liability with respect to donees resident outside the Province, but the liability arises only where such donees have property within the Province.

SECTION 5. The re-enactment of subsection 1 of section 47 extends the lien now conferred by that subsection to real property in Ontario that belongs to a donee who is not resident in Ontario and whose property is, by the amendment proposed in section 4 of this Bill, made liable to tax that the donor fails to pay. In addition, the wording of the proposed subsection has been changed to make it accord more precisely with the practice and procedure in Ontario. The new subsection 1*a* is intended to provide a method of realizing upon the lien created by subsection 1.

Section 47 (1) of the Act, before the amendments proposed here, reads as follows:

47.—(1) Where tax, interest or penalties are payable by any person under this Act, the Minister may file or cause to be filed in the proper registry office or office of land titles, as the case may be, a certificate of lien in prescribed form against real property of which that person is the registered owner setting out a description of the real property and the amount of tax, interest and penalties owing by that person, and, upon the certificate being filed, the interest of that person in the land described therein is subject to a lien in favour of the Crown for the amount owing, subject to any other interests or encumbrances filed prior thereto, and the lien may be enforced in the same manner as a judgment of the Supreme Court in respect of which a certificate of judgment has been filed.

such settlement or trust cannot thereafter be altered by the exercise of any discretion, or be divested by the occurrence of any event, provided for in such settlement or trust.

4. Section 34 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 15, section 4, is further amended by adding thereto the following subsection: s. 34, amended

(7) Notwithstanding subsection 1, where a donor fails to pay, as herein required, all or a portion of the tax payable by him on or in respect of gifts made by him in a year to a donee who is not a resident of Ontario at the time the gift was made, the property of such donee that is situate in Ontario at the time the gift was made, including any property in Ontario comprised in the gift to such donee, is liable for the payment to the Treasurer of Ontario of the same amount of tax as would be payable by the donee in accordance with this section if he were a resident of Ontario at the time the gift was made to him. Non-resident donees

5. Subsection 1 of section 47 of the said Act is repealed and the following substituted therefor: s. 47 (1), re-enacted

(1) Where tax, interest or penalties are payable by any person under this Act, or where any property is liable for the payment of any tax, interest or penalties payable under this Act, the Minister may file or cause to be filed in the proper land registry office a certificate of lien in prescribed form against real property belonging to such person, or against any real property liable for the payment of any tax, interest or penalties payable under this Act, and setting out a description of the real property and the amount of tax, interest or penalties for which such person or property is liable, and upon the certificate's being filed, the real property described therein is, to the extent of the interest therein of any person liable to pay any tax, interest or penalties under this Act or whose property in Ontario is liable for the payment thereof, subject to a lien in favour of the Crown for the amount owing, and such lien has priority over all interests in such real property, except interests and encumbrances filed prior to the registration of the certificate and entitled to priority over the Crown. Lien on real property

(1*a*) Upon the filing of the certificate referred to in subsection 1, the Minister may deliver to the sheriff of the county or district where the real property against which the certificate has been filed is situated a warrant of execution issued by or on behalf of the Minister for the amount claimed in the certificate, together with interest accruing thereon Enforcement of lien

under this Act and the costs and expenses of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court on a judgment in favour of the Crown and shall entitle the Crown to payment in accordance with the priorities and preferences attaching to or resulting from the lien arising under subsection 1.

Commencement

6.—(1) This Act, except sections 1, 2 and 3, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 1 and 2 come into force on a day, not earlier than the 1st day of January, 1977, to be named by proclamation of the Lieutenant Governor.

Idem

(3) Section 3 comes into force on the 1st day of January, 1977.

Short title

7. This Act may be cited as *The Gift Tax Amendment Act, 1976 (No. 2)*.

An Act to amend
The Gift Tax Act, 1972

1st Reading

October 26th, 1976

2nd Reading

3rd Reading

THE HON. A. K. MEEN
Minister of Revenue

(*Government Bill*)

1976

Ontario. Legislative Assembly

BILL 135 **Government Bill**

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

An Act to provide for the limited inclusion of Grapes grown outside Ontario in Ontario Wine

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THE HON. S. HANDLEMAN
Minister of Consumer and Commercial Relations

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The Bill authorizes the sale, in Ontario, of wine which is manufactured from imported grapes or blended with imported wine provided the wine sold is manufactured in accordance with the quotas, terms and conditions prescribed by the regulations. The authorization to sell the wine so manufactured expires on the 31st day of December, 1981.

The Lieutenant Governor in Council has the authority to make regulations setting quotas of imported grapes or wines to be allowed, as well as prescribing proportions to be used and terms and conditions in respect of quotas.

A contravention of the Act is deemed to be a contravention of section 4 (1) of *The Liquor Licence Act, 1975* which reads as follows:

> *4.—(1) No person shall keep for sale, offer for sale or sell liquor except under the authority of a licence or permit issued by the Board.*

BILL 135 **1976**

An Act to provide for the limited inclusion of Grapes grown outside Ontario in Ontario Wine

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Regulations for use of non-Ontario grapes and wine 1975, cc. 40, 27

1.—(1) Notwithstanding any provision of *The Liquor Licence Act, 1975* and *The Liquor Control Act, 1975* and the regulations made thereunder, the Lieutenant Governor in Council may make regulations,

(*a*) fixing for each manufacturer licensed under *The Liquor Licence Act, 1975* a quota of grapes grown out of Ontario or the equivalent thereof in imported wine that may be used by the manufacturer in the manufacture of wine for the purposes set out in section 2;

(*b*) prescribing the terms and conditions under which the quotas mentioned in clause *a* may be used and providing for their cancellation or reduction;

(*c*) prescribing the proportions in which grapes grown out of Ontario or the equivalent thereof in imported wine may be used in the manufacture of wine with grapes, or the concentrates thereof, grown in Ontario.

Time limit used in manufacture

(2) A manufacturer licensed under *The Liquor Licence Act, 1975* shall not, after the 31st day of December, 1981, introduce into the manufacture of wine any part of the quota of grapes or imported wine fixed under clause *a* of subsection 1.

Sale of wine permitted

2. Notwithstanding any provision of *The Liquor Licence Act, 1975*, a manufacturer of Ontario wine licensed under *The Liquor Licence Act, 1975* may,

(*a*) keep for sale and sell to the Liquor Control Board; and

(*b*) keep for sale and sell under the supervision and control of the Liquor Control Board,

wine manufactured in accordance with this Act and the regulations by the combination of grapes grown in Ontario, or the concentrates thereof, with grapes grown out of Ontario or imported wines.

Offence

3. Any contravention of this Act or the regulations thereunder shall be deemed to be a contravention of subsection 1 of section 4 of *The Liquor Licence Act, 1975*.

Application of 1975, cc. 27, 40

4. Nothing in this Act shall be construed so as to limit the application of *The Liquor Control Act, 1975* and *The Liquor Licence Act, 1975* and the regulations thereunder, except as specifically provided herein.

1972, c. 171, repealed

5. *The Wine Content Act, 1972*, being chapter 171, is repealed.

Commencement

6. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

7. This Act may be cited as *The Wine Content Act, 1976*.

An Act to provide for the limited inclusion of Grapes grown outside Ontario in Ontario Wine

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1st Reading

October 26th, 1976

2nd Reading

3rd Reading

THE HON. S. HANDLEMAN
Minister of Consumer and Commercial Relations

(*Government Bill*)

1976

Ontario. Legislative Assembly

356

BILL 135 **Government Bill**

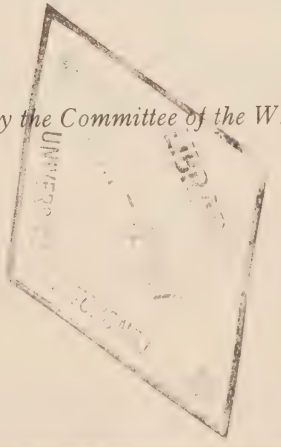
3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications

An Act to provide for the limited inclusion of Grapes grown outside Ontario in Ontario Wine

THE HON. S. HANDLEMAN
Minister of Consumer and Commercial Relations

(Reprinted as amended by the Committee of the Whole House)



TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The Bill authorizes the sale, in Ontario, of wine which is manufactured from imported grapes or blended with imported wine provided the wine sold is manufactured in accordance with the quotas, terms and conditions prescribed by the regulations. The authorization to sell the wine so manufactured is limited to wines manufactured prior to the 1st day of January, 1982.

The Lieutenant Governor in Council has the authority to make regulations setting quotas of imported grapes or wines to be allowed, as well as prescribing proportions to be used and terms and conditions in respect of quotas.

A contravention of the Act is deemed to be a contravention of section 4 (1) of *The Liquor Licence Act, 1975* which reads as follows:

4.—(1) No person shall keep for sale, offer for sale or sell liquor except under the authority of a licence or permit issued by the Board.

BILL 135 **1976**

An Act to provide for the limited inclusion of Grapes grown outside Ontario in Ontario Wine

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Regulations for use of non-Ontario grapes and wine 1975, cc. 40, 27

1.—(1) Notwithstanding any provision of *The Liquor Licence Act, 1975* and *The Liquor Control Act, 1975* and the regulations made thereunder, the Lieutenant Governor in Council may make regulations,

(*a*) fixing for each manufacturer licensed under *The Liquor Licence Act, 1975* a quota of grapes grown out of Ontario or the equivalent thereof in imported wine that may be used by the manufacturer in the manufacture of wine for the purposes set out in section 2;

(*b*) prescribing the terms and conditions under which the quotas mentioned in clause *a* may be used and providing for their cancellation or reduction;

(*c*) prescribing the proportions in which grapes grown out of Ontario or the equivalent thereof in imported wine may be used in the manufacture of wine with grapes, or the concentrates thereof, grown in Ontario.

Time limit used in manufacture

(2) A manufacturer licensed under *The Liquor Licence Act, 1975* shall not, after the 31st day of December, 1981, introduce into the manufacture of wine any part of the quota of grapes or imported wine fixed under clause *a* of subsection 1.

Sale of wine permitted

2. Notwithstanding any provision of *The Liquor Licence Act, 1975*, a manufacturer of Ontario wine licensed under *The Liquor Licence Act, 1975* may,

(*a*) keep for sale and sell to the Liquor Control Board; and

(*b*) keep for sale and sell under the supervision and control of the Liquor Control Board,

wine manufactured in accordance with this Act and the regulations by the combination of grapes grown in Ontario, or the concentrates thereof, with grapes grown out of Ontario or imported wines.

Offence

3. Any contravention of this Act or the regulations thereunder shall be deemed to be a contravention of subsection 1 of section 4 of *The Liquor Licence Act, 1975*.

Application of 1975, cc. 27, 40

4. Nothing in this Act shall be construed so as to limit the application of *The Liquor Control Act, 1975* and *The Liquor Licence Act, 1975* and the regulations thereunder, except as specifically provided herein.

Purpose of Act

5. The purpose of this Act is to permit the introduction of grapes grown outside Ontario and imported wine into wine manufactured in Ontario without reducing the use of Ontario grapes in the content.

1972, c. 171, repealed

6. *The Wine Content Act, 1972*, being chapter 171, is repealed.

Commencement

7. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

8. This Act may be cited as *The Wine Content Act, 1976*.

An Act to provide for the limited inclusion of Grapes grown outside Ontario in Ontario Wine

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1st Reading

October 26th, 1976

2nd Reading

December 14th, 1976

3rd Reading

THE HON. S. HANDLEMAN
Minister of Consumer and Commercial Relations

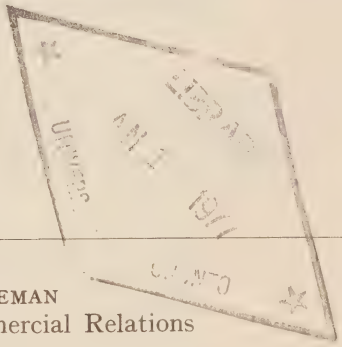
(*Reprinted as amended by the Committee of the Whole House*)

1976

BILL 135

3rd Session, 30th Legislature, Ontario
25 Elizabeth II, 1976

An Act to provide for the limited inclusion of Grapes grown outside Ontario in Ontario Wine



The Hon. S. Handleman
Minister of Consumer and Commercial Relations

TORONTO
Printed by J. C. Thatcher, Queen's Printer for Ontario

BILL 135 **1976**

An Act to provide for the limited inclusion of Grapes grown outside Ontario in Ontario Wine

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Regulations for use of non-Ontario grapes and wine 1975, cc. 40, 27

1.—(1) Notwithstanding any provision of *The Liquor Licence Act, 1975* and *The Liquor Control Act, 1975* and the regulations made thereunder, the Lieutenant Governor in Council may make regulations,

(*a*) fixing for each manufacturer licensed under *The Liquor Licence Act, 1975* a quota of grapes grown out of Ontario or the equivalent thereof in imported wine that may be used by the manufacturer in the manufacture of wine for the purposes set out in section 2;

(*b*) prescribing the terms and conditions under which the quotas mentioned in clause *a* may be used and providing for their cancellation or reduction;

(*c*) prescribing the proportions in which grapes grown out of Ontario or the equivalent thereof in imported wine may be used in the manufacture of wine with grapes, or the concentrates thereof, grown in Ontario.

Time limit used in manufacture

(2) A manufacturer licensed under *The Liquor Licence Act, 1975* shall not, after the 31st day of December, 1981, introduce into the manufacture of wine any part of the quota of grapes or imported wine fixed under clause *a* of subsection 1.

Sale of wine permitted

2. Notwithstanding any provision of *The Liquor Licence Act, 1975*, a manufacturer of Ontario wine licensed under *The Liquor Licence Act, 1975* may,

(*a*) keep for sale and sell to the Liquor Control Board; and

(*b*) keep for sale and sell under the supervision and control of the Liquor Control Board,

wine manufactured in accordance with this Act and the regulations by the combination of grapes grown in Ontario, or the concentrates thereof, with grapes grown out of Ontario or imported wines.

Offence

3. Any contravention of this Act or the regulations thereunder shall be deemed to be a contravention of subsection 1 of section 4 of *The Liquor Licence Act, 1975*.

Application of 1975, cc. 27, 40

4. Nothing in this Act shall be construed so as to limit the application of *The Liquor Control Act, 1975* and *The Liquor Licence Act, 1975* and the regulations thereunder, except as specifically provided herein.

Purpose of Act

5. The purpose of this Act is to permit the introduction of grapes grown outside Ontario and imported wine into wine manufactured in Ontario without reducing the use of Ontario grapes in the content.

1972, c. 171, repealed

6. *The Wine Content Act, 1972*, being chapter 171, is repealed.

Commencement

7. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

8. This Act may be cited as *The Wine Content Act, 1976*.

An Act to provide for the limited inclusion of Grapes grown outside Ontario in Ontario Wine

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1st Reading

October 26th, 1976

2nd Reading

December 14th, 1976

3rd Reading

December 16th, 1976

THE HON. S. HANDLEMAN
Minister of Consumer and
Commercial Relations

1976

Ontario. Legislative Assembly

BILL 136 **Government Bill**

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications

The Corporations Information Act, 1976



THE HON. S. B. HANDLEMAN
Minister of Consumer and Commercial Relations

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The Bill revises *The Corporations Information Act, 1971*.

The principal changes are:

1. The annual returns are abolished and a new return is required only where the information has changed.

2. The information required to be maintained is revised and simplified for the basic purpose of showing the officers and directors and address for service of legal processes.

3. The registration of a name or style other than the corporate name is retained but where used in business transactions must be accompanied by the corporate name.

BILL 136 **1976**

The Corporations Information Act, 1976

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpretation

(*a*) "corporation" means any corporation with or without share capital wherever or however incorporated and includes "extra-provincial corporation";

(*b*) "court" means the Supreme Court of Ontario presided over by one of those judges of the High Court who are designated by the Chief Justice of the High Court for the purpose of hearing applications under this Act;

(*c*) "extra-provincial corporation" means a corporation with or without share capital incorporated otherwise than by or under the authority of an Act of the Legislature;

(*d*) "Minister" means the Minister of Consumer and Commercial Relations or such other member of the Executive Council to whom the administration of this Act may be assigned;

(*e*) "Ministry" means the Ministry of the Minister;

(*f*) "prescribed" means prescribed by the regulations;

(*g*) "regulations" means the regulations made under this Act. 1971, c. 27, s. 1; 1972, c. 1, s. 37, *amended*.

2.—(1) No corporation shall carry on business in Ontario or identify itself to the public in Ontario by a name or style other than its corporate name unless the name or style is first registered with the Minister. Registration of business names

Idem

(2) A corporation may register a name or style referred to in subsection 1 by filing with the Minister a statement setting out,

(*a*) the name of the corporation;

(*b*) the jurisdiction in which it was incorporated;

(*c*) the name or style in which it intends to carry on business or identify itself to the public;

(*d*) a brief description of the business, activity or service to be carried on in or identified by the name being registered; and

(*e*) the location of its head office giving street and number, if any. 1971, c. 27, s. 2 (1, 2).

Form of name

(3) A name or style registered under this section shall not have the word "Limited", "Incorporated", "Corporation" or "Co-operative" or its corresponding abbreviation "Ltd.", "Inc.", "Corp." or "Co-op." or the corresponding version in another language, as the last word thereof.

Use of corporate name

(4) Notwithstanding subsection 1, a corporation shall set out its corporate name in legible characters in all contracts, invoices, negotiable instruments and orders for goods or services issued or made by or on behalf of the corporation. *New.*

Rights to name

(5) The registration of a name or style under this section does not confer on the corporation any right to such name or style that it does not otherwise have.

Expiration and renewal
1971, c. 27

(6) Every registration made under this section or the predecessor of this section in *The Corporations Information Act, 1971*, expires five years after the registration, unless sooner withdrawn by the corporation, subject to renewal for a further period of five years from time to time. 1971, c. 27, s. 2 (3, 4), *amended.*

Filing of initial notice

3.—(1) Subject to section 4, within sixty days of the later of the date upon which this section comes into force, the date of its amalgamation, incorporation, or continuation, or of the date of establishing its head or other office or carrying on any business activity or service or a part thereof in Ontario, every corporation, unless of a class exempted by the regulations, shall make out, verify and file with the Minister an initial notice setting out as of the date of filing,

(*a*) the name of the corporation;

(*b*) the date and manner of its incorporation, continuation or amalgamation;

(*c*) the jurisdiction under which the corporation was incorporated, continued or amalgamated;

(*d*) the names and residence addresses, giving street and number, if any, of the directors and the date on which each became a director;

(*e*) the names and residence addresses, giving street and number, if any, of its president, secretary, treasurer and general manager, or the holders of any equivalent offices, and the date on which each became an officer;

(*f*) the location of its head office and, if different from the head office, the principal place of business in Ontario, giving street and number, if any, in each case. 1971, c. 27, s. 3 (1), *part*; 1972, c. 139, s. 1 (1), *amended*.

Continuation of previous filing 1971, c. 27

(2) Where a corporation has filed the latest annual return required under *The Corporations Information Act, 1971* before this section comes into force, the annual return together with any notice of change filed shall be deemed to be the initial notice required by subsection 1. *New*.

Notice of change

(3) Every corporation to which subsection 1 applies shall file with the Minister a notice of change for every change under clauses *a* to *f* of subsection 1 or clauses *a* to *c* of subsection 1 or 2 of section 4, whichever is applicable, within ten days after the change or changes took place and the notice shall repeat the information required under the said clauses and shall specify any changes, together with the dates thereof that have taken place. 1971, c. 27, s. 3 (5), *amended*.

Verification

(4) Every notice filed under subsection 1 or 3 shall be verified by the certificate of an officer or director of the corporation or other individual person having knowledge of the affairs of the corporation. 1971, c. 27, s. 3 (3), *amended*.

Carrying on business R.S.O. 1970, c. 280

(5) A corporation that holds a licence under *The Mortmain and Charitable Uses Act* shall be deemed to be carrying on business in Ontario for the purposes of subsection 1. 1971, c. 27, s. 3 (2).

Availability of copy at head office

(6) The corporation shall retain a duplicate of all notices submitted under this Act and shall maintain a copy or

copies available for examination by any shareholder, member, director, officer or creditor of the corporation during the normal business hours of the corporation at its head or principal office in Ontario, who may make copies thereof or extracts therefrom. 1971, c. 27, s. 3 (4), *amended*.

Extra-provincial corporations R.S.O. 1970, c. 89

4.—(1) Notwithstanding clauses *a* to *f* of subsection 1 of section 3, an extra-provincial corporation holding a licence issued under Part IX of *The Corporations Act* shall file the following information only,

(*a*) the name and office address of its attorney for service in Ontario;

(*b*) the name and office address of its chief officer or manager in Ontario;

(*c*) the location of its principal office in Ontario. 1971, c. 27, s. 3 (1), *part*.

Other corporations

(2) Notwithstanding clauses *a* to *f* of subsection 1 of section 3, a corporation incorporated, continued or amalgamated by or under the authority of an Act of the Parliament of Canada or a corporation prescribed by the regulations shall file the following information only,

(*a*) the name of the corporation;

(*b*) the date and manner of its incorporation, continuation or amalgamation;

(*c*) the jurisdiction under which the corporation was incorporated, continued or amalgamated. *New*.

Further notice on request

5. The Minister may at any time by notice in writing, given by prepaid mail or otherwise, require any corporation to file within thirty days after receipt of the notice a notice upon any or all of the matters contained in section 3 or 4. *New*.

Date of receipt

6. The Minister shall cause every notice received in his office under this Act to be endorsed with a memorandum of the date of its receipt and to be recorded. *New*.

Examination by public

7.—(1) Upon payment of the prescribed fee, any person is entitled to examine the record of any document filed under section 2, 3, 4 or 5 or any predecessor thereof, and to make extracts therefrom.

Furnishing copies

(2) Upon payment of the prescribed fee, the Minister shall furnish any person with a certified copy of the contents of

any document filed with him under section 2, 3, 4 or 5 or any predecessor thereof. 1971, c. 27, s. 4.

Information required by Minister

8.—(1) The Minister may at any time by notice in writing, given by prepaid mail or otherwise, require any corporation to file within the time specified in the notice a return upon any subject connected with its affairs and relevant to the administration or enforcement of this Act, *The Business Corporations Act*, *The Corporations Act* or *The Co-operative Corporations Act, 1973*.

R.S.O. 1970, cc. 53, 89
1973, c. 101

Confidentiality

(2) The Minister or any employee of the Ministry shall not disclose any information contained in a return made under subsection 1 except where the disclosure is necessary for the administration or enforcement of this Act, *The Business Corporations Act*, *The Corporations Act* or *The Co-operative Corporations Act, 1973* or where disclosure is required by a court for the purposes of an action, prosecution or other proceeding. 1971, c. 27, s. 5, *amended*.

Delegation by Minister

9. The Minister, with the approval of the Lieutenant Governor in Council, may delegate in writing any of his duties or powers under this Act to any public servant in the Ministry. 1971, c. 27, s. 6.

Offence

10.—(1) Every person who makes a statement in any document, material, evidence or information submitted or required by or for the purposes of this Act that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact, the omission of which makes the statement false or misleading, is guilty of an offence and on summary conviction is liable to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both, or, if such person is a corporation, to a fine of not more than $25,000.

Knowledge as element of offence

(2) No person is guilty of an offence under subsection 1 if he did not know the statement was false or misleading and, in the exercise of reasonable diligence, could not have known that the statement was false or misleading.

Responsibility of directors and officers

(3) Where a corporation is guilty of an offence under subsection 1, every director or officer of such corporation who authorized, permitted or acquiesced in such offence is also guilty of an offence and, on summary conviction, is liable to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both. 1971, c. 27, s. 7.

General offence

11.—(1) Every person who,

(*a*) contravenes this Act or the regulations;

or

(*b*) fails to observe or comply with any order, direction, or other requirement made under this Act or the regulations,

is, except where such conduct constitutes an offence under section 10, guilty of an offence and on summary conviction is liable to a fine of not more than $2,000 or, if such person is a corporation, to a fine of not more than $25,000.

Responsibility of directors and officers

(2) Where a corporation is guilty of an offence under subsection 1, every director or officer of the corporation, and, where the corporation is an extra-provincial corporation, every person acting as his representative in Ontario, who authorized, permitted or acquiesced in such offence is also guilty of an offence and on summary conviction is liable to a fine of not more than $2,000. 1971, c. 27, s. 8.

Consent to prosecute

12.—(1) No proceedings under section 10 or 11 shall be commenced except with the consent of or under the direction of the Minister.

Limitation

(2) No proceedings under section 10 or 11 shall be commenced more than two years after the facts upon which the proceedings are based first came to the knowledge of the Minister as certified by him. 1971, c. 27, s. 9, *amended*.

Order for compliance

13. Where it appears to the Minister or to any shareholder, member, creditor, director or officer of the corporation that the corporation has not complied with any provision of this Act or the regulations or any order, direction or other requirement made under this Act or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, he may apply to the court for an order directing the corporation or any director or officer or employee, as the case may be, to comply with such provision, order, direction or other requirement or for an order restraining such person from contravening such provision, order, direction or requirement and upon such application the court may make such order, or such other order as the court thinks fit. 1971, c. 27, s. 10, *amended*.

Disability to sue when in default

14.—(1) Where a corporation has failed to file a notice or register a name or style as required by this Act, the corporation is not capable of maintaining any action or other

proceeding in any court in Ontario in respect of any contract made by the corporation.

Subsequent filing

(2) Where a notice is filed or a name or style is registered, as the case may be, after an action or proceeding is commenced by the corporation, the action or proceeding may be continued as if a notice had been filed or the name or style had been registered in accordance with this Act prior to the institution of the action or proceeding. *New.*

Certificate of Minister

15. The Minister may issue a certificate certifying,

(*a*) as to the registration or non-registration of a name or style under section 2;

(*b*) as to the filing or non-filing of any document or material required or permitted to be filed under this Act;

(*c*) as to the time when the facts upon which proceedings are based first came to the knowledge of the Minister; or

(*d*) that a person named in the certificate on the date or during the period specified in the certificate is shown on the records of the Ministry as a director, officer, manager or attorney for service of the corporation named in the certificate. 1971, c. 27, s. 11.

Execution of certificate of Minister

16.—(1) Where this Act requires or authorizes the Minister to issue a certificate or certify any fact, the certificate shall be issued under the seal of the Minister and shall be signed by him or by such officer of the Ministry as is designated by the regulations.

Certificates as evidence

(2) Any certificate purporting to be under the seal of the Minister and signed by a person authorized by or under subsection 1, or any certified copy, shall be received in evidence in any action, prosecution or other proceedings as *prima facie* proof of the facts so certified without personal appearance to prove the seal, the signature or the official position of the person appearing to have signed the certificate. 1971, c. 27, s. 11, *amended.*

Duty of Minister

17. The Minister may accept the information contained in any notice filed under this Act without making any inquiry as to its completeness or accuracy. *New.*

Regulations

18. The Lieutenant Governor in Council may make regulations,

(*a*) exempting any class or classes of corporations from filing notices under section 3 or 4;

(*b*) providing for the registration of names and styles under section 2 and for the renewal thereof;

(*c*) requiring the payment of fees upon the performance of any official function under this Act and prescribing the amounts thereof;

(*d*) designating officers of the Ministry who may sign certificates for the purposes of section 16;

(*e*) respecting the form, period of retention, and destruction of any document required to be filed under this Act or a predecessor thereof. 1971, c. 27, s. 17; 1972, c. 139, s. 2, *amended*.

1971, c. 27, 1972, c. 139, repealed

19. *The Corporations Information Act, 1971*, being chapter 27, and *The Corporations Information Amendment Act, 1972*, being chapter 139, are repealed.

Commencement

20.—(1) This Act, except subsection 4 of section 2, comes into force on the day it receives Royal Assent.

Idem

(2) Subsection 4 of section 2 comes into force on the 1st day of July, 1977.

Short title

21. This Act may be cited as *The Corporations Information Act, 1976*.

The Corporations Information Act, 1976

1st Reading

October 26th, 1976

2nd Reading

3rd Reading

THE HON. S. B. HANDLEMAN
Minister of Consumer and
Commercial Relations

(*Government Bill*)

1976

KB
B 56

BILL 136 Government Bill

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications

Ontario. Legislative Assembly

The Corporations Information Act, 1976

THE HON. S. B. HANDLEMAN
Minister of Consumer and Commercial Relations

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(Reprinted as amended by the Committee of the Whole House)

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

The Bill revises *The Corporations Information Act, 1971*.

The principal changes are:

1. The annual returns are abolished and a new return is required only where the information has changed.

2. The information required to be maintained is revised and simplified for the basic purpose of showing the officers and directors and address for service of legal processes.

3. The registration of a name or style other than the corporate name is retained but where used in business transactions must be accompanied by the corporate name.

BILL 136 **1976**

The Corporations Information Act, 1976

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpretation

(*a*) "corporation" means any corporation with or without share capital wherever or however incorporated and includes "extra-provincial corporation";

(*b*) "court" means the Supreme Court of Ontario presided over by one of those judges of the High Court who are designated by the Chief Justice of the High Court for the purpose of hearing applications under this Act;

(*c*) "extra-provincial corporation" means a corporation with or without share capital incorporated otherwise than by or under the authority of an Act of the Legislature;

(*d*) "Minister" means the Minister of Consumer and Commercial Relations or such other member of the Executive Council to whom the administration of this Act may be assigned;

(*e*) "Ministry" means the Ministry of the Minister;

(*f*) "prescribed" means prescribed by the regulations;

(*g*) "regulations" means the regulations made under this Act. 1971, c. 27, s. 1; 1972, c. 1, s. 37, *amended*.

2.—(1) No corporation shall carry on business in Ontario or identify itself to the public in Ontario by a name or style other than its corporate name unless the name or style is first registered with the Minister. Registration of business names

Idem

(2) A corporation may register a name or style referred to in subsection 1 by filing with the Minister a statement setting out,

(*a*) the name of the corporation;

(*b*) the jurisdiction in which it was incorporated;

(*c*) the name or style in which it intends to carry on business or identify itself to the public;

(*d*) a brief description of the business, activity or service to be carried on in or identified by the name being registered; and

(*e*) the location of its head office giving street and number, if any. 1971, c. 27, s. 2 (1, 2).

Form of name

(3) A name or style registered under this section shall not have the word "Limited", "Incorporated", "Corporation" or "Co-operative" or its corresponding abbreviation "Ltd.", "Inc.", "Corp." or "Co-op." or the corresponding version in another language, as the last word thereof.

Use of corporate name

(4) Notwithstanding subsection 1, a corporation shall set out its corporate name in legible characters in all contracts, invoices, negotiable instruments and orders for goods or services issued or made by or on behalf of the corporation. *New.*

Rights to name

(5) The registration of a name or style under this section does not confer on the corporation any right to such name or style that it does not otherwise have.

Expiration and renewal

1971, c. 27

(6) Every registration made under this section or the predecessor of this section in *The Corporations Information Act, 1971*, expires five years after the registration, unless sooner withdrawn by the corporation, subject to renewal for a further period of five years from time to time. 1971, c. 27, s. 2 (3, 4), *amended.*

Filing of initial notice

3.—(1) Subject to section 4, within sixty days of the later of the date upon which this section comes into force, the date of its amalgamation, incorporation, or continuation, or of the date of establishing its head or other office or carrying on any business activity or service or a part thereof in Ontario, every corporation, unless of a class exempted by the regulations, shall make out, verify and file with the Minister an initial notice setting out as of the date of filing,

(*a*) the name of the corporation;

(*b*) the date and manner of its incorporation, continuation or amalgamation;

(*c*) the jurisdiction under which the corporation was incorporated, continued or amalgamated;

(*d*) the names and residence addresses, giving street and number, if any, of the directors and the date on which each became a director and, where the corporation is a corporation with share capital, whether or not,

(i) each director is a resident Canadian, and

(ii) each director is a director of any other corporation related to the corporation as determined under *The Corporations Tax Act, 1972*, and, if so, the name of such related corporation and the jurisdiction of its incorporation; 1972, c. 143

(*e*) the names and residence addresses, giving street and number, if any, of its president, secretary, treasurer and general manager, or the holders of any equivalent offices, and the date on which each became an officer;

(*f*) the location of its head office and, if different from the head office, the principal place of business in Ontario, giving street and number, if any, in each case. 1971, c. 27, s. 3 (1), *part*; 1972, c. 139, s. 1 (1), *amended*.

Continuation of previous filing 1971, c. 27

(2) Where a corporation has filed the latest annual return required under *The Corporations Information Act, 1971* before this section comes into force, the annual return together with any notice of change filed shall be deemed to be the initial notice required by subsection 1. *New*.

Notice of change

(3) Every corporation to which subsection 1 applies shall file with the Minister a notice of change for every change under clauses *a* to *f* of subsection 1 or clauses *a* to *c* of subsection 1 or 2 of section 4, whichever is applicable, within ten days after the change or changes took place and the notice shall repeat the information required under the said clauses and shall specify any changes, together with the dates thereof that have taken place. 1971, c. 27, s. 3 (5), *amended*.

Verification

(4) Every notice filed under subsection 1 or 3 shall be verified by the certificate of an officer or director of the corporation or other individual person having knowledge of the affairs of the corporation. 1971, c. 27, s. 3 (3), *amended*.

Carrying on business R.S.O. 1970, c. 280

(5) A corporation that holds a licence under *The Mortmain and Charitable Uses Act* shall be deemed to be carrying on business in Ontario for the purposes of subsection 1. 1971, c. 27, s. 3 (2).

Availability of copy at head office

(6) The corporation shall retain a duplicate of all notices submitted under this Act and shall maintain a copy or copies available for examination by any shareholder, member, director, officer or creditor of the corporation during the normal business hours of the corporation at its head or principal office in Ontario, who may make copies thereof or extracts therefrom. 1971, c. 27, s. 3 (4), *amended*.

Extra-provincial corporations R.S.O. 1970, c. 89

4.—(1) Notwithstanding clauses *a* to *f* of subsection 1 of section 3, an extra-provincial corporation holding a licence issued under Part IX of *The Corporations Act* shall file the following information only,

(*a*) the name and office address of its attorney for service in Ontario;

(*b*) the name and office address of its chief officer or manager in Ontario;

(*c*) the location of its principal office in Ontario. 1971, c. 27, s. 3 (1), *part*.

Other corporations

(2) Notwithstanding clauses *a* to *f* of subsection 1 of section 3, a corporation incorporated, continued or amalgamated by or under the authority of an Act of the Parliament of Canada or a corporation prescribed by the regulations shall file the following information only,

(*a*) the name of the corporation;

(*b*) the date and manner of its incorporation, continuation or amalgamation;

(*c*) the jurisdiction under which the corporation was incorporated, continued or amalgamated. *New*.

Further notice on request

5. The Minister may at any time by notice in writing, given by prepaid mail or otherwise, require any corporation to file within thirty days after receipt of the notice a notice upon any or all of the matters contained in section 3 or 4. *New*.

Date of receipt

6. The Minister shall cause every notice received in his office under this Act to be endorsed with a memorandum of the date of its receipt and to be recorded. *New.*

Examination by public

7.—(1) Upon payment of the prescribed fee, any person is entitled to examine the record of any document filed under section 2, 3, 4 or 5 or any predecessor thereof, and to make extracts therefrom.

Furnishing copies

(2) Upon payment of the prescribed fee, the Minister shall furnish any person with a certified copy of the contents of any document filed with him under section 2, 3, 4 or 5 or any predecessor thereof. 1971, c. 27, s. 4.

Information required by Minister

8.—(1) The Minister may at any time by notice in writing, given by prepaid mail or otherwise, require any corporation to file within the time specified in the notice a return upon any subject connected with its affairs and relevant to the administration or enforcement of this Act, *The Business Corporations Act*, *The Corporations Act* or *The Co-operative Corporations Act, 1973*.

R.S.O. 1970, cc. 53, 89
1973, c. 101

Confidentiality

(2) The Minister or any employee of the Ministry shall not disclose any information contained in a return made under subsection 1 except where the disclosure is necessary for the administration or enforcement of this Act, *The Business Corporations Act*, *The Corporations Act* or *The Co-operative Corporations Act, 1973* or where disclosure is required by a court for the purposes of an action, prosecution or other proceeding. 1971, c. 27, s. 5, *amended*.

Delegation by Minister

9. The Minister, with the approval of the Lieutenant Governor in Council, may delegate in writing any of his duties or powers under this Act to any public servant in the Ministry. 1971, c. 27, s. 6.

Offence

10.—(1) Every person who makes a statement in any document, material, evidence or information submitted or required by or for the purposes of this Act that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact, the omission of which makes the statement false or misleading, is guilty of an offence and on summary conviction is liable to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both, or, if such person is a corporation, to a fine of not more than $25,000.

Knowledge as element of offence

(2) No person is guilty of an offence under subsection 1 if he did not know the statement was false or misleading

and, in the exercise of reasonable diligence, could not have known that the statement was false or misleading.

Responsibility of directors and officers

(3) Where a corporation is guilty of an offence under subsection 1, every director or officer of such corporation who authorized, permitted or acquiesced in such offence is also guilty of an offence and, on summary conviction, is liable to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both. 1971, c. 27, s. 7.

General offence

11.—(1) Every person who,

(*a*) contravenes this Act or the regulations;

or

(*b*) fails to observe or comply with any order, direction, or other requirement made under this Act or the regulations,

is, except where such conduct constitutes an offence under section 10, guilty of an offence and on summary conviction is liable to a fine of not more than $2,000 or, if such person is a corporation, to a fine of not more than $25,000.

Responsibility of directors and officers

(2) Where a corporation is guilty of an offence under subsection 1, every director or officer of the corporation, and, where the corporation is an extra-provincial corporation, every person acting as his representative in Ontario, who authorized, permitted or acquiesced in such offence is also guilty of an offence and on summary conviction is liable to a fine of not more than $2,000. 1971, c. 27, s. 8.

Consent to prosecute

12.—(1) No proceedings under section 10 or 11 shall be commenced except with the consent of or under the direction of the Minister.

Limitation

(2) No proceedings under section 10 or 11 shall be commenced more than two years after the facts upon which the proceedings are based first came to the knowledge of the Minister as certified by him. 1971, c. 27, s. 9, *amended*.

Order for compliance

13. Where it appears to the Minister or to any shareholder, member, creditor, director or officer of the corporation that the corporation has not complied with any provision of this Act or the regulations or any order, direction or other requirement made under this Act or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, he may apply to the court for an order

directing the corporation or any director or officer or employee, as the case may be, to comply with such provision, order, direction or other requirement or for an order restraining such person from contravening such provision, order, direction or requirement and upon such application the court may make such order, or such other order as the court thinks fit. 1971, c. 27, s. 10, *amended*.

Disability to sue when in default

14.—(1) Where a corporation has failed to file a notice or register a name or style as required by this Act, the corporation is not capable of maintaining any action or other proceeding in any court in Ontario in respect of any contract made by the corporation.

Subsequent filing

(2) Where a notice is filed or a name or style is registered, as the case may be, after an action or proceeding is commenced by the corporation, the action or proceeding may be continued as if a notice had been filed or the name or style had been registered in accordance with this Act prior to the institution of the action or proceeding. *New*.

Certificate of Minister

15. The Minister may issue a certificate certifying,

(*a*) as to the registration or non-registration of a name or style under section 2;

(*b*) as to the filing or non-filing of any document or material required or permitted to be filed under this Act;

(*c*) as to the time when the facts upon which proceedings are based first came to the knowledge of the Minister; or

(*d*) that a person named in the certificate on the date or during the period specified in the certificate is shown on the records of the Ministry as a director, officer, manager or attorney for service of the corporation named in the certificate. 1971, c. 27, s. 11.

Execution of certificate of Minister

16.—(1) Where this Act requires or authorizes the Minister to issue a certificate or certify any fact, the certificate shall be issued under the seal of the Minister and shall be signed by him or by such officer of the Ministry as is designated by the regulations.

Certificates as evidence

(2) Any certificate purporting to be under the seal of the Minister and signed by a person authorized by or under subsection 1, or any certified copy, shall be received in evidence in any action, prosecution or other proceedings as

prima facie proof of the facts so certified without personal appearance to prove the seal, the signature or the official position of the person appearing to have signed the certificate. 1971, c. 27, s. 11, *amended*.

Duty of Minister

17. The Minister may accept the information contained in any notice filed under this Act without making any inquiry as to its completeness or accuracy. *New*.

Regulations

18. The Lieutenant Governor in Council may make regulations,

(*a*) exempting any class or classes of corporations from filing notices under section 3 or 4;

(*b*) providing for the registration of names and styles under section 2 and for the renewal thereof;

(*c*) requiring the payment of fees upon the performance of any official function under this Act and prescribing the amounts thereof;

(*d*) designating officers of the Ministry who may sign certificates for the purposes of section 16;

(*e*) respecting the form, period of retention, and destruction of any document required to be filed under this Act or a predecessor thereof. 1971, c. 27, s. 17; 1972, c. 139, s. 2, *amended*.

1971, c. 27, 1972, c. 139, repealed

19. *The Corporations Information Act, 1971*, being chapter 27, and *The Corporations Information Amendment Act, 1972*, being chapter 139, are repealed.

Commencement

20.—(1) This Act, except subsection 4 of section 2, comes into force on the day it receives Royal Assent.

Idem

(2) Subsection 4 of section 2 comes into force on the 1st day of July, 1977.

Short title

21. This Act may be cited as *The Corporations Information Act, 1976*.

The Corporations Information Act, 1976

1st Reading

October 26th, 1976

2nd Reading

November 2nd, 1976

3rd Reading

THE HON. S. B. HANDLEMAN
Minister of Consumer and
Commercial Relations

(*Reprinted as amended by the Committee of the Whole House*)

1976

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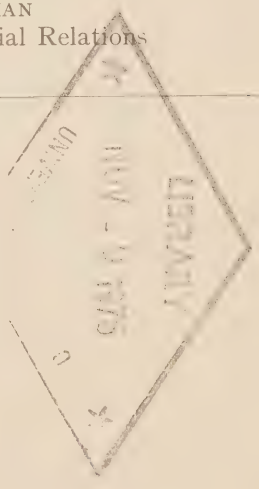
Government Publications

3rd Session, 30th Legislature, Ontario
25 Elizabeth II, 1976

Ontario. Legislative Assembly

The Corporations Information Act, 1976

The Hon. S. B. Handleman
Minister of Consumer and Commercial Relations



TORONTO
Printed by J. C. Thatcher, Queen's Printer for Ontario

BILL 136 **1976**

The Corporations Information Act, 1976

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpretation

(*a*) "corporation" means any corporation with or without share capital wherever or however incorporated and includes "extra-provincial corporation";

(*b*) "court" means the Supreme Court of Ontario presided over by one of those judges of the High Court who are designated by the Chief Justice of the High Court for the purpose of hearing applications under this Act;

(*c*) "extra-provincial corporation" means a corporation with or without share capital incorporated otherwise than by or under the authority of an Act of the Legislature;

(*d*) "Minister" means the Minister of Consumer and Commercial Relations or such other member of the Executive Council to whom the administration of this Act may be assigned;

(*e*) "Ministry" means the Ministry of the Minister;

(*f*) "prescribed" means prescribed by the regulations;

(*g*) "regulations" means the regulations made under this Act. 1971, c. 27, s. 1; 1972, c. 1, s. 37, *amended*.

2.—(1) No corporation shall carry on business in Ontario or identify itself to the public in Ontario by a name or style other than its corporate name unless the name or style is first registered with the Minister. Registration of business names

Idem

(2) A corporation may register a name or style referred to in subsection 1 by filing with the Minister a statement setting out,

(*a*) the name of the corporation;

(*b*) the jurisdiction in which it was incorporated;

(*c*) the name or style in which it intends to carry on business or identify itself to the public;

(*d*) a brief description of the business, activity or service to be carried on in or identified by the name being registered; and

(*e*) the location of its head office giving street and number, if any. 1971, c. 27, s. 2 (1, 2).

Form of name

(3) A name or style registered under this section shall not have the word "Limited", "Incorporated", "Corporation" or "Co-operative" or its corresponding abbreviation "Ltd.", "Inc.", "Corp." or "Co-op." or the corresponding version in another language, as the last word thereof.

Use of corporate name

(4) Notwithstanding subsection 1, a corporation shall set out its corporate name in legible characters in all contracts, invoices, negotiable instruments and orders for goods or services issued or made by or on behalf of the corporation. *New*.

Rights to name

(5) The registration of a name or style under this section does not confer on the corporation any right to such name or style that it does not otherwise have.

Expiration and renewal
1971, c. 27

(6) Every registration made under this section or the predecessor of this section in *The Corporations Information Act, 1971*, expires five years after the registration, unless sooner withdrawn by the corporation, subject to renewal for a further period of five years from time to time. 1971, c. 27, s. 2 (3, 4), *amended*.

Filing of initial notice

3.—(1) Subject to section 4, within sixty days of the later of the date upon which this section comes into force, the date of its amalgamation, incorporation, or continuation, or of the date of establishing its head or other office or carrying on any business activity or service or a part thereof in Ontario, every corporation, unless of a class exempted by the regulations, shall make out, verify and file with the Minister an initial notice setting out as of the date of filing,

(*a*) the name of the corporation;

(*b*) the date and manner of its incorporation, continuation or amalgamation;

(*c*) the jurisdiction under which the corporation was incorporated, continued or amalgamated;

(*d*) the names and residence addresses, giving street and number, if any, of the directors and the date on which each became a director and, where the corporation is a corporation with share capital, whether or not,

(i) each director is a resident Canadian, and

(ii) each director is a director of any other corporation related to the corporation as determined under *The Corporations Tax Act, 1972*, and, if so, the name of such related corporation and the jurisdiction of its incorporation; 1972, c. 143

(*e*) the names and residence addresses, giving street and number, if any, of its president, secretary, treasurer and general manager, or the holders of any equivalent offices, and the date on which each became an officer;

(*f*) the location of its head office and, if different from the head office, the principal place of business in Ontario, giving street and number, if any, in each case. 1971, c. 27, s. 3 (1), *part*; 1972, c. 139, s. 1 (1), *amended*.

Continuation of previous filing 1971, c. 27

(2) Where a corporation has filed the latest annual return required under *The Corporations Information Act, 1971* before this section comes into force, the annual return together with any notice of change filed shall be deemed to be the initial notice required by subsection 1. *New*.

Notice of change

(3) Every corporation to which subsection 1 applies shall file with the Minister a notice of change for every change under clauses *a* to *f* of subsection 1 or clauses *a* to *c* of subsection 1 or 2 of section 4, whichever is applicable, within ten days after the change or changes took place and the notice shall repeat the information required under the said clauses and shall specify any changes, together with the dates thereof that have taken place. 1971, c. 27, s. 3 (5), *amended*.

Verification

(4) Every notice filed under subsection 1 or 3 shall be verified by the certificate of an officer or director of the corporation or other individual person having knowledge of the affairs of the corporation. 1971, c. 27, s. 3 (3), *amended*.

Carrying on business R.S.O. 1970, c. 280

(5) A corporation that holds a licence under *The Mortmain and Charitable Uses Act* shall be deemed to be carrying on business in Ontario for the purposes of subsection 1. 1971, c. 27, s. 3 (2).

Availability of copy at head office

(6) The corporation shall retain a duplicate of all notices submitted under this Act and shall maintain a copy or copies available for examination by any shareholder, member, director, officer or creditor of the corporation during the normal business hours of the corporation at its head or principal office in Ontario, who may make copies thereof or extracts therefrom. 1971, c. 27, s. 3 (4), *amended*.

Extra-provincial corporations R.S.O. 1970, c. 89

4.—(1) Notwithstanding clauses *a* to *f* of subsection 1 of section 3, an extra-provincial corporation holding a licence issued under Part IX of *The Corporations Act* shall file the following information only,

(*a*) the name and office address of its attorney for service in Ontario;

(*b*) the name and office address of its chief officer or manager in Ontario;

(*c*) the location of its principal office in Ontario. 1971, c. 27, s. 3 (1), *part*.

Other corporations

(2) Notwithstanding clauses *a* to *f* of subsection 1 of section 3, a corporation incorporated, continued or amalgamated by or under the authority of an Act of the Parliament of Canada or a corporation prescribed by the regulations shall file the following information only,

(*a*) the name of the corporation;

(*b*) the date and manner of its incorporation, continuation or amalgamation;

(*c*) the jurisdiction under which the corporation was incorporated, continued or amalgamated. *New*.

Further notice on request

5. The Minister may at any time by notice in writing, given by prepaid mail or otherwise, require any corporation to file within thirty days after receipt of the notice a notice upon any or all of the matters contained in section 3 or 4. *New*.

Date of receipt

6. The Minister shall cause every notice received in his office under this Act to be endorsed with a memorandum of the date of its receipt and to be recorded. *New.*

Examination by public

7.—(1) Upon payment of the prescribed fee, any person is entitled to examine the record of any document filed under section 2, 3, 4 or 5 or any predecessor thereof, and to make extracts therefrom.

Furnishing copies

(2) Upon payment of the prescribed fee, the Minister shall furnish any person with a certified copy of the contents of any document filed with him under section 2, 3, 4 or 5 or any predecessor thereof. 1971, c. 27, s. 4.

Information required by Minister

8.—(1) The Minister may at any time by notice in writing, given by prepaid mail or otherwise, require any corporation to file within the time specified in the notice a return upon any subject connected with its affairs and relevant to the administration or enforcement of this Act, *The Business Corporations Act*, *The Corporations Act* or *The Co-operative Corporations Act, 1973*.

R.S.O. 1970, cc. 53, 89
1973, c. 101

Confidentiality

(2) The Minister or any employee of the Ministry shall not disclose any information contained in a return made under subsection 1 except where the disclosure is necessary for the administration or enforcement of this Act, *The Business Corporations Act*, *The Corporations Act* or *The Co-operative Corporations Act, 1973* or where disclosure is required by a court for the purposes of an action, prosecution or other proceeding. 1971, c. 27, s. 5, *amended*.

Delegation by Minister

9. The Minister, with the approval of the Lieutenant Governor in Council, may delegate in writing any of his duties or powers under this Act to any public servant in the Ministry. 1971, c. 27, s. 6.

Offence

10.—(1) Every person who makes a statement in any document, material, evidence or information submitted or required by or for the purposes of this Act that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact, the omission of which makes the statement false or misleading, is guilty of an offence and on summary conviction is liable to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both, or, if such person is a corporation, to a fine of not more than $25,000.

Knowledge as element of offence

(2) No person is guilty of an offence under subsection 1 if he did not know the statement was false or misleading

and, in the exercise of reasonable diligence, could not have known that the statement was false or misleading.

Responsibility of directors and officers

(3) Where a corporation is guilty of an offence under subsection 1, every director or officer of such corporation who authorized, permitted or acquiesced in such offence is also guilty of an offence and, on summary conviction, is liable to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both. 1971, c. 27, s. 7.

General offence

11.—(1) Every person who,

(*a*) contravenes this Act or the regulations;

or

(*b*) fails to observe or comply with any order, direction, or other requirement made under this Act or the regulations,

is, except where such conduct constitutes an offence under section 10, guilty of an offence and on summary conviction is liable to a fine of not more than $2,000 or, if such person is a corporation, to a fine of not more than $25,000.

Responsibility of directors and officers

(2) Where a corporation is guilty of an offence under subsection 1, every director or officer of the corporation, and, where the corporation is an extra-provincial corporation, every person acting as his representative in Ontario, who authorized, permitted or acquiesced in such offence is also guilty of an offence and on summary conviction is liable to a fine of not more than $2,000. 1971, c. 27, s. 8.

Consent to prosecute

12.—(1) No proceedings under section 10 or 11 shall be commenced except with the consent of or under the direction of the Minister.

Limitation

(2) No proceedings under section 10 or 11 shall be commenced more than two years after the facts upon which the proceedings are based first came to the knowledge of the Minister as certified by him. 1971, c. 27, s. 9, *amended*.

Order for compliance

13. Where it appears to the Minister or to any shareholder, member, creditor, director or officer of the corporation that the corporation has not complied with any provision of this Act or the regulations or any order, direction or other requirement made under this Act or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, he may apply to the court for an order

directing the corporation or any director or officer or employee, as the case may be, to comply with such provision, order, direction or other requirement or for an order restraining such person from contravening such provision, order, direction or requirement and upon such application the court may make such order, or such other order as the court thinks fit. 1971, c. 27, s. 10, *amended*.

Disability to sue when in default

14.—(1) Where a corporation has failed to file a notice or register a name or style as required by this Act, the corporation is not capable of maintaining any action or other proceeding in any court in Ontario in respect of any contract made by the corporation.

Subsequent filing

(2) Where a notice is filed or a name or style is registered, as the case may be, after an action or proceeding is commenced by the corporation, the action or proceeding may be continued as if a notice had been filed or the name or style had been registered in accordance with this Act prior to the institution of the action or proceeding. *New*.

Certificate of Minister

15. The Minister may issue a certificate certifying,

(*a*) as to the registration or non-registration of a name or style under section 2;

(*b*) as to the filing or non-filing of any document or material required or permitted to be filed under this Act;

(*c*) as to the time when the facts upon which proceedings are based first came to the knowledge of the Minister; or

(*d*) that a person named in the certificate on the date or during the period specified in the certificate is shown on the records of the Ministry as a director, officer, manager or attorney for service of the corporation named in the certificate. 1971, c. 27, s. 11.

Execution of certificate of Minister

16.—(1) Where this Act requires or authorizes the Minister to issue a certificate or certify any fact, the certificate shall be issued under the seal of the Minister and shall be signed by him or by such officer of the Ministry as is designated by the regulations.

Certificates as evidence

(2) Any certificate purporting to be under the seal of the Minister and signed by a person authorized by or under subsection 1, or any certified copy, shall be received in evidence in any action, prosecution or other proceedings as

prima facie proof of the facts so certified without personal appearance to prove the seal, the signature or the official position of the person appearing to have signed the certificate. 1971, c. 27, s. 11, *amended*.

Duty of Minister

17. The Minister may accept the information contained in any notice filed under this Act without making any inquiry as to its completeness or accuracy. *New*.

Regulations

18. The Lieutenant Governor in Council may make regulations,

(*a*) exempting any class or classes of corporations from filing notices under section 3 or 4;

(*b*) providing for the registration of names and styles under section 2 and for the renewal thereof;

(*c*) requiring the payment of fees upon the performance of any official function under this Act and prescribing the amounts thereof;

(*d*) designating officers of the Ministry who may sign certificates for the purposes of section 16;

(*e*) respecting the form, period of retention, and destruction of any document required to be filed under this Act or a predecessor thereof. 1971, c. 27, s. 17; 1972, c. 139, s. 2, *amended*.

1971, c. 27, 1972, c. 139, 1972, c. 1, s. 37, repealed

19. *The Corporations Information Act, 1971*, being chapter 27, *The Corporations Information Amendment Act, 1972*, being chapter 139 and section 37 of *The Government Reorganization Act, 1972*, being chapter 1, are repealed.

Commencement

20.—(1) This Act, except subsection 4 of section 2, comes into force on the day it receives Royal Assent.

Idem

(2) Subsection 4 of section 2 comes into force on the 1st day of July, 1977.

Short title

21. This Act may be cited as *The Corporations Information Act, 1976*.

The Corporations Information Act, 1976

1st Reading

October 26th, 1976

2nd Reading

November 2nd, 1976

3rd Reading

November 10th, 1976

The Hon. S. B. Handleman
Minister of Consumer and
Commercial Relations

1976

Ontario. Legislative Assembly

BILL 137

Government Bill

Government Publications

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

An Act to amend The Business Corporations Act

THE HON. S. B. HANDLEMAN
Minister of Consumer and Commercial Relations

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

This Bill is complementary to the Bill to enact *The Corporations Information Act, 1976*.

Default in filing annual returns as grounds for an order dissolving a corporation with share capital is replaced by default in filing corporations' tax returns.

BILL 137 **1976**

An Act to amend The Business Corporations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 251 of *The Business Corporations Act*, being chapter 53 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1971, chapter 26, section 40 and 1972, chapter 138, section 58, is repealed and the following substituted therefor: s. 251, re-enacted

251.—(1) Where the Minister is notified by the Minister of Revenue that a corporation is in default in complying with the provisions of *The Corporations Tax Act, 1972*, the Minister may give notice by registered mail to the corporation or by publication once in *The Ontario Gazette* that an order dissolving the corporation will be issued unless the corporation remedies its default within ninety days after the giving of the notice. Notice of dissolution 1972, c. 143

(2) Where the Minister is notified by the Commission that a corporation has not complied with section 134 of *The Securities Act*, the Minister may give notice by registered mail to the corporation or by publication once in *The Ontario Gazette* that an order dissolving the corporation will be issued unless the corporation complies with section 134 of *The Securities Act* within ninety days after the giving of the notice. Idem R.S.O. 1970, c. 426

(3) Upon default in compliance with the notice given under subsection 1 or 2, the Minister may by order cancel the certificate of incorporation and, subject to subsection 4, the corporation is dissolved on the date fixed in the order. Order for dissolution

(4) Where a corporation is dissolved under subsection 3 or any predecessor thereof, the Minister, on the application of any interested person immediately before the dissolution, made within two years after the date of dissolution, may in Revival

his discretion by order, on such terms and conditions as he sees fit to impose, revive the corporation and thereupon the corporation, subject to the terms and conditions of the order and to any rights acquired by any person after its dissolution, is restored to its legal position, including all its property, rights, privileges and franchises, and is subject to all its liabilities, contracts, disabilities and debts, as of the date of its dissolution, in the same manner and to the same extent as if it had not been dissolved.

Commencement

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. This Act may be cited as *The Business Corporations Amendment Act, 1976*.

An Act to amend
The Business Corporations Act

1st Reading

October 26th, 1976

2nd Reading

3rd Reading

THE HON. S. B. HANDLEMAN
Minister of Consumer and
Commercial Relations

(*Government Bill*)

1976

Ontario. Legislative Assembly

BILL 137

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications

An Act to amend The Business Corporations Act

THE HON. S. B. HANDLEMAN
Minister of Consumer and Commercial Relations

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 137 **1976**

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251.—(1) Where the Minister is notified by the Minister of Revenue that a corporation is in default in complying with the provisions of *The Corporations Tax Act, 1972*, the Minister may give notice by registered mail to the corporation or by publication once in *The Ontario Gazette* that an order dissolving the corporation will be issued unless the corporation remedies its default within ninety days after the giving of the notice. Notice of dissolution 1972, c. 143

(2) Where the Minister is notified by the Commission that a corporation has not complied with section 134 of *The Securities Act*, the Minister may give notice by registered mail to the corporation or by publication once in *The Ontario Gazette* that an order dissolving the corporation will be issued unless the corporation complies with section 134 of *The Securities Act* within ninety days after the giving of the notice. Idem R.S.O. 1970, c. 426

(3) Upon default in compliance with the notice given under subsection 1 or 2, the Minister may by order cancel the certificate of incorporation and, subject to subsection 4, the corporation is dissolved on the date fixed in the order. Order for dissolution

(4) Where a corporation is dissolved under subsection 3 or any predecessor thereof, the Minister, on the application of any interested person immediately before the dissolution, made within two years after the date of dissolution, may in Revival

his discretion by order, on such terms and conditions as he sees fit to impose, revive the corporation and thereupon the corporation, subject to the terms and conditions of the order and to any rights acquired by any person after its dissolution, is restored to its legal position, including all its property, rights, privileges and franchises, and is subject to all its liabilities, contracts, disabilities and debts, as of the date of its dissolution, in the same manner and to the same extent as if it had not been dissolved.

Commencement

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. This Act may be cited as *The Business Corporations Amendment Act, 1976*.

An Act to amend
The Business Corporations Act

1st Reading

October 26th, 1976

2nd Reading

November 2nd, 1976

3rd Reading

November 10th, 1976

THE HON. S. B. HANDLEMAN
Minister of Consumer and
Commercial Relations

1976

Ontario. Legislative Assembly

BILL 138 **Government Bill**

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

An Act to amend The Corporations Act

THE HON. S. B. HANDLEMAN
Minister of Consumer and Commercial Relations

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Note

This Bill is complementary to the Bill to enact *The Corporations Information Act, 1976*.

Default in filing annual returns as grounds for an order dissolving a corporation without share capital is replaced by default in providing up-dated information requested by the Minister.

BILL 138 **1976**

An Act to amend The Corporations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 9 and 10 of section 347 of *The Corporations Act*, being chapter 89 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor: s. 347 (9, 10), re-enacted

(9) Where it appears that a corporation is in default of filing with the Minister a notice required under section 5 of *The Corporations Information Act, 1976* and that notice of such default has been sent by registered mail to the corporation or has been published once in *The Ontario Gazette*, the Lieutenant Governor may by order, after 180 days after the notice has been sent or published, Order for dissolution 1976, c. ...

(*a*) cancel the letters patent of the corporation and declare it to be dissolved on such date as the order may fix; or

(*b*) declare the corporate existence of the corporation, if it was incorporated otherwise than by letters patent, to be terminated and the corporation to be dissolved on such date as the order may fix.

(10) Where a corporation has been dissolved under subsection 9 or any predecessor thereof, the Lieutenant Governor, on the application of any interested person made within two years after the date of dissolution, may in his discretion by order, on such terms and conditions as he sees fit to impose, revive the corporation, and thereupon the corporation shall, subject to the terms and conditions of the order and to any rights acquired by any person after its dissolution, be restored to its legal position, including all its property, rights, privileges and franchises, and be subject to all its liabilities, contracts, disabilities and debts, as at the date of its dissolution, in the same manner and to the same extent as if it had not been dissolved. Revival

Commencement

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. This Act may be cited as *The Corporations Amendment Act, 1976*.

An Act to amend
The Corporations Act

1st Reading

October 26th, 1976

2nd Reading

3rd Reading

THE HON. S. B. HANDLEMAN
Minister of Consumer and
Commercial Relations

(*Government Bill*)

1976

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BILL 138

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications

Ontario. Legislative Assembly

An Act to amend The Corporations Act

THE HON. S. B. HANDLEMAN
Minister of Consumer and Commercial Relations

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 138 **1976**

An Act to amend The Corporations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 9 and 10 of section 347 of *The Corporations Act*, being chapter 89 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor: s. 347 (9, 10), re-enacted

(9) Where it appears that a corporation is in default of filing with the Minister a notice required under section 5 of *The Corporations Information Act, 1976* and that notice of such default has been sent by registered mail to the corporation or has been published once in *The Ontario Gazette*, the Lieutenant Governor may by order, after 180 days after the notice has been sent or published, Order for dissolution 1976, c. ...

(*a*) cancel the letters patent of the corporation and declare it to be dissolved on such date as the order may fix; or

(*b*) declare the corporate existence of the corporation, if it was incorporated otherwise than by letters patent, to be terminated and the corporation to be dissolved on such date as the order may fix.

(10) Where a corporation has been dissolved under subsection 9 or any predecessor thereof, the Lieutenant Governor, on the application of any interested person made within two years after the date of dissolution, may in his discretion by order, on such terms and conditions as he sees fit to impose, revive the corporation, and thereupon the corporation shall, subject to the terms and conditions of the order and to any rights acquired by any person after its dissolution, be restored to its legal position, including all its property, rights, privileges and franchises, and be subject to all its liabilities, contracts, disabilities and debts, as at the date of its dissolution, in the same manner and to the same extent as if it had not been dissolved. Revival

Commencement

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. This Act may be cited as *The Corporations Amendment Act, 1976*.

An Act to amend
The Corporations Act

1st Reading

October 26th, 1976

2nd Reading

November 2nd, 1976

3rd Reading

November 10th, 1976

THE HON. S. B. HANDLEMAN
Minister of Consumer and
Commercial Relations

1976

Ontario. Legislative Assembly

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BILL 139 **Government Bill**

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications

An Act respecting Employees' Health and Safety

THE HON. B. STEPHENSON
Minister of Labour

TORONTO
PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

Explanatory Notes

Section 1. The definitions are complementary to other sections of the Act.

BILL 139 **1976**

An Act respecting Employees' Health and Safety

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpretation

(*a*) "committee" means a joint health and safety committee;

(*b*) "employer" includes a manager as defined in Part IX of *The Mining Act*; R.S.O. 1970, c. 274

(*c*) "engineer" means an engineer as defined in Part IX of *The Mining Act*;

(*d*) "inspector" means an inspector as defined in *The Industrial Safety Act, 1971*, or *The Construction Safety Act, 1973*, as the case may be; 1971, c. 43 1973, c. 47

(*e*) "Minister" means the Minister of Labour;

(*f*) "trade union" means a trade union as defined in *The Labour Relations Act* that has the status of exclusive bargaining agent under that Act in respect of any bargaining unit or units in any work place or any part or parts thereof; R.S.O. 1970, c. 232

(*g*) "work place" means,

(i) an industrial establishment as defined in *The Industrial Safety Act, 1971*,

(ii) a project as defined in *The Construction Safety Act, 1973*, and

(iii) a mine and a plant as defined in Part IX of *The Mining Act*.

Employee may refuse to work

2. Where an employee in a work place has reasonable cause to believe that a machine, device or thing is unsafe for him to use or operate or a place in or about a work place is unsafe for him to work in, or the machine, device, thing or place is in contravention of *The Industrial Safety Act, 1971*, *The Construction Safety Act, 1973* or Part IX of *The Mining Act*, or any regulations thereunder, as the case may be, the employee may refuse to use or operate the machine, device or thing, or work in the place.

1971, c. 43
1973, c. 47
R.S.O. 1970, c. 274

Employee to report to employer

3.—(1) Where an employee in a work place refuses to use or operate a machine, device or thing, or refuses to work in a place therein because he has reasonable cause to believe that the machine, device or thing is unsafe for him to use or operate or the place is unsafe for him to work in, or the machine, device, thing or place is in contravention of *The Industrial Safety Act, 1971*, *The Construction Safety Act, 1973* or Part IX of *The Mining Act*, or any regulations thereunder, as the case may be, he shall forthwith report the circumstances of the matter to his employer or the person having control and direction over him who shall forthwith investigate the report in the presence of the employee and, if there is such, in the presence of either a safety representative, a committee member who represents employees, or a person authorized by the trade union that represents the employee.

Employee may refuse to return to work

(2) Where the employer or the person having control and direction over the employee disputes the report or takes steps to make the machine, device, thing or place safe or comply with *The Industrial Safety Act, 1971*, *The Construction Safety Act, 1973* or Part IX of *The Mining Act*, or any regulations thereunder, as the case may be, and the employee has reasonable cause to believe that the machine, device or thing is or continues to be unsafe for him to use or operate or the place is or continues to be unsafe for him to work in or the machine, device, thing or place is or continues to be in contravention of *The Industrial Safety Act, 1971*, *The Construction Safety Act, 1973* or Part IX of *The Mining Act*, or any regulations thereunder, as the case may be, he may refuse to return to work.

Investigation by inspector or engineer

(3) Where the employee refuses to return to work, the employer or person having control and direction over the employee shall notify an appropriate inspector or an engineer, as the case may be, who shall investigate the matter in the presence of the employer or the person having control and direction over the employee, the employee and, if there is such, either a safety representative, a committee member who represents employees or a person authorized by the trade union that represents the employee.

Section 2. The section provides that an employee may refuse to work where he believes an unsafe condition exists.

Section 3. The section provides that, where an employee refuses to work, the employer must investigate the matter, and, where the employee refuses to return to work, an inspector or engineer must be called in to make a decision on the matter.

Section 4. The section empowers the Minister of Labour to order an employer to establish a joint health and safety committee in a work place, and provides for the composition and functions of a committee, its meetings and the time of employees spent thereon.

(4) The inspector or engineer shall, following his investigation, make a decision whether the machine, device or thing is unsafe for the employee to use or operate or the place is unsafe for the employee to work in or the machine, device, thing or place is in contravention of *The Industrial Safety Act, 1971*, *The Construction Safety Act, 1973* or Part IX of *The Mining Act*, or any regulations thereunder, as the case may be. Decision by inspector or engineer 1971, c. 43 1973, c. 47 R.S.O. 1970, c. 274

4.—(1) The Minister may, by order in writing, require an employer or a class or group of employers as defined in the order to establish a joint health and safety committee or committees for a work place, or any part or parts thereof, and, in the order, may provide for the qualifications and the term of office of its members and its practice and procedures, and, from time to time, may give such directions as the Minister considers advisable concerning its functions. Minister may make order

(2) In exercising the power conferred by subsection 1, the Minister may consider, What Minister may consider

(*a*) the nature of the work being done;

(*b*) the number of employees engaged in the work;

(*c*) the frequency of injury in doing work of that nature in the industry of which the employer is a part;

(*d*) the existence of health and safety programs and procedures in the work place and the effectiveness thereof; and

(*e*) such other matters as the Minister considers advisable.

(3) A committee shall consist of such number of persons as the Minister may prescribe, of whom at least half shall be employees who do not exercise managerial functions, to be selected by the employees they are to represent or, where there is a trade union or trade unions representing such employees, by the trade union or trade unions. Composition of committee

(4) It is the function of a committee and it has power to, Powers of committee

(*a*) identify situations that may be a source of danger or hazard to employees;

(*b*) make recommendations to the employer and employees for the improvement of the health and safety of employees;

(*c*) establish and maintain programs, measures and procedures respecting the health and safety of employees and monitor their effectiveness;

(*d*) obtain information from the employer or other persons respecting,

(i) the identification of potential or existing hazards of materials, processes or equipment, and

(ii) health and safety experience and work practices and standards in the same or similar industries;

(*e*) maintain and keep minutes and records of its proceedings and it shall make the same available for examination and review by an inspector or engineer.

Posting of names and work locations

(5) An employer shall post and keep posted the names and work locations of the committee members in a conspicuous place or places where they are most likely to come to the attention of his employees.

Meetings of committee

(6) A committee shall meet during working hours at least four times a year and not more often than once a month and may be required to meet by order of the Minister.

Entitlement to time from work

(7) A member of a committee is entitled to such time from his work as is necessary to attend meetings of the committee without deduction of the time so spent from his work time and without deduction from his wages for time so spent.

Minister may make order

5.—(1) The Minister may, by order in writing, require an employer or a class or group of employers as defined in the order to cause the selection of one or more safety representatives for a work place, or any part or parts thereof, from among the employees who do not exercise managerial functions, and may from time to time give such directions as the Minister considers advisable concerning the functions of a safety representative.

Selection of safety representative

(2) The selection of a safety representative shall be made by the employees who do not exercise managerial functions whom the safety representative is to represent or, where there is a trade union or trade unions representing such employees, by the trade union or trade unions.

(3) A safety representative may inspect the work place not more often than once a month or at such intervals as an inspector or engineer, as the case may be, may direct, and it is the duty of the employer and the employees to afford the safety representative such information and assistance as may be required for the purpose of carrying out the inspection. Powers of safety representative

(4) Where an accident occurs at a work place that causes serious injury or death to a person therein or thereat, a notice in writing of the occurrence shall be given forthwith by the employer to the safety representative, if any, and, the safety representative may inspect the place where the accident occurred and any machine, device or thing, and report his findings to the committee, if any, but nothing in this subsection affects the duties and responsibilities of an employer under sections 33, 34 and 35 of *The Industrial Safety Act, 1971*, sections 25 and 30 of *The Construction Safety Act, 1973*, and sections 612 and 613 of *The Mining Act*. Notice of accident, inspection by safety representative

1971, c. 43
1973, c. 47
R.S.O. 1970, c. 274

(5) A safety representative is entitled to take such time from his work as is necessary to carry out his duties under subsections 3 and 4 without deduction of time so spent from his work time and without deduction from his wages for time so spent. Entitlement to time from work

6.—(1) Where an inspector exercises the powers conferred upon him under clause *a* of subsection 1 of section 8 of *The Industrial Safety Act, 1971* or clause *a* of subsection 1 of section 6 of *The Construction Safety Act, 1973* or an engineer exercises the powers conferred upon him under clause *b* of subsection 1 of section 618 of *The Mining Act*, the employer shall afford to a safety representative, if any, a representative authorized by a trade union or trade unions, if any, or failing such representative, a representative authorized by the employees, the opportunity to accompany the inspector or engineer during his physical inspection of a work place, or any part or parts thereof. Opportunity to accompany inspector or engineer

(2) Where there is no safety representative or authorized representative, the inspector or engineer shall endeavour to consult during his physical inspection with a reasonable number of the employees concerning matters of health and safety at their work. Consultation with employees

(3) The time spent by a safety representative or an authorized representative in accompanying an inspector or engineer during his physical inspection shall be deemed to be work time. Time deemed to be work time

Posting of copies of direction, order or report
1971, c. 43
1973, c. 47
R.S.O. 1970, c. 274

7. Where an inspector gives a direction in writing under section 10 of *The Industrial Safety Act, 1971* or an order in writing under section 11 of *The Construction Safety Act, 1973* or an engineer gives a notice in writing under clause *a* of subsection 1 of section 618 of *The Mining Act* or an inspector or engineer issues a report of his inspection to an employer, the employer shall forthwith cause a copy or copies thereof to be posted in a conspicuous place or places where it is most likely to come to the attention of the employees and shall furnish a copy of such direction, order, notice or report to the safety representative and the committee, if any, and the inspector or engineer shall cause a copy thereof to be furnished to a person who has complained of a contravention of *The Industrial Safety Act, 1971*, *The Construction Safety Act, 1973* or Part IX of *The Mining Act*, or any regulations thereunder.

Summary to be furnished

8.—(1) The Workmen's Compensation Board, upon the request of an employee or a trade union, shall send to the appropriate employer an annual summary of data relating to the employer in respect of the number of work accident fatalities, the number of lost workday cases, the number of lost workdays, the number of non-fatal cases without lost workdays, the number of occupational illnesses, the number of occupational injuries, and such other data as the Board may consider necessary or advisable.

Delivery and posting of copy of summary

(2) Upon receipt of the annual summary, the employer shall forthwith deliver a copy thereof to the committee, if any, and to the trade union or trade unions representing the employee, and, where there is no trade union, shall cause a copy thereof to be posted in a conspicuous place or places where it is most likely to come to the attention of the employees.

No discipline, dismissal, etc., by employer

9.—(1) No employer or person acting on behalf of an employer shall,

(*a*) dismiss or threaten to dismiss an employee;

(*b*) discipline or suspend or threaten to discipline or suspend an employee;

(*c*) impose any penalty upon an employee; or

(*d*) intimidate or coerce an employee,

because the employee has acted in compliance with this Act.

Section 5. The Minister is empowered to order the selection of a safety representative in a work place who is entitled to inspect the work place, to be notified of accidents and to investigate them.

SECTION 6. An employer is required to permit a safety representative to accompany an inspector or engineer during his inspection of a work place.

SECTION 7. The section requires that directions or reports of an inspector or engineer be communicated to the safety representative and the committee, if any, and to an employee who has complained of a contravention of an Act mentioned in the section or any regulations thereunder.

SECTION 8. The Workmen's Compensation Board is required to send upon request an annual summary of accident statistics to an employer who is then required to furnish copies to the trade union and the committee, or to post the summary.

SECTION 9. The section provides that no employee shall be dismissed, etc., because he has acted in compliance with this Act.

The Ontario Labour Relations Board may inquire into a complaint alleging a contravention of the section and the Board may exercise its powers under certain sections of *The Labour Relations Act*, including the power to order reinstatement.

SECTION 10. The section creates certain offences and provides a penalty therefor.

SECTION 11. Self-explanatory.

SECTION 12. The administration of Part IX of *The Mining Act*, which deals with the operation of mines, is transferred from the Minister of Natural Resources to the Minister of Labour.

SECTION 13. The administration of *The Silicosis Act* is transferred from the Minister of Health to the Minister of Labour.

(2) An employee may file with the Ontario Labour Relations Board a complaint alleging a contravention of subsection 1, and any regulations governing the practice and procedure of the Board apply *mutatis mutandis* to any such complaint. Employee may file complaint

(3) The Ontario Labour Relations Board may inquire into any complaint filed under subsection 2, and section 79 of *The Labour Relations Act*, except subsection 4*a*, applies *mutatis mutandis* as if such section, except subsection 4*a*, were enacted in and forms part of this Act. Inquiry into complaint

(4) On an inquiry by the Ontario Labour Relations Board into a complaint filed under subsection 2, sections 91, 92, 95, 97 and 98 of *The Labour Relations Act* apply *mutatis mutandis*. Application of R.S.O. 1970, c. 232

(5) On an inquiry by the Ontario Labour Relations Board into a complaint filed under subsection 2, the burden of proof that an employer or person acting on behalf of an employer did not act contrary to subsection 1 lies upon the employer or person acting on behalf of the employer. Burden of proof

10. Every employer who fails to comply with an order made under subsection 1 of section 4 or subsection 1 of section 5 or contravenes subsection 1 of section 9 is guilty of an offence and on summary conviction is liable to a fine of not more than $10,000, or to imprisonment for a term of not more than twelve months, or to both. Offence

11. Where there is a conflict between the provisions of this Act and the provisions of any general or special Act, the provisions of this Act prevail. Act prevails

12.—(1) The administration of Part IX of *The Mining Act*, except section 616, is assigned and transferred to the Minister of Labour and a reference in that Part, except in section 616, to the Minister, the Deputy Minister or the Ministry shall be deemed to be a reference to the Minister of Labour, the Deputy Minister of Labour or the Ministry of Labour, as the case may be. Assignment and transfer to Minister R.S.O. 1970, c. 274

(2) The reference in subsection 3 of section 632 of *The Mining Act* to the Deputy Minister shall be deemed to be a reference to the Deputy Minister of Labour. Reference to Deputy Minister

13. The administration of *The Silicosis Act* is assigned and transferred to the Minister of Labour and a reference in that Act and the regulations thereunder to the Director Assignment and transfer to Minister R.S.O. 1970, c. 438

or to the Minister shall be deemed to be a reference to the Chief of the Industrial Disease Service of the Ministry of Labour or to the Minister of Labour, as the case may be.

Commencement

14.—(1) This Act, except section 8, comes into force on the day it receives Royal Assent.

Idem

(2) Section 8 comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

15. This Act may be cited as *The Employees' Health and Safety Act, 1976*.

An Act respecting
Employees' Health and Safety

1st Reading

October 26th, 1976

2nd Reading

3rd Reading

THE HON. B. STEPHENSON
Minister of Labour

(*Government Bill*)

1976

Ontario. Legislative Assembly

BILL 139 **Government Bill**

Government Publications

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

An Act respecting Employees' Health and Safety

THE HON. B. STEPHENSON
Minister of Labour

(Reprinted as amended by the Committee of the Whole House)

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Explanatory Notes

Section 1. The definitions are complementary to other sections of the Act.

BILL 139 **1976**

An Act respecting Employees' Health and Safety

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpretation

(*a*) "committee" means a joint health and safety committee;

(*b*) "employer" includes a manager as defined in Part IX of *The Mining Act*; R.S.O. 1970, c. 274

(*c*) "engineer" means an engineer as defined in Part IX of *The Mining Act*;

(*d*) "health and safety representative" means a health and safety representative selected by employees he represents or by the trade union or trade unions representing such employees;

(*e*) "inspector" means an inspector as defined in *The Industrial Safety Act, 1971*, or *The Construction Safety Act, 1973*, as the case may be; 1971, c. 43 1973, c. 47

(*f*) "Minister" means the Minister of Labour;

(*g*) "trade union" means a trade union as defined in *The Labour Relations Act* that has the status of exclusive bargaining agent under that Act in respect of any bargaining unit or units in any work place or any part or parts thereof; R.S.O. 1970, c. 232

(*h*) "work place" means,

(i) an industrial establishment as defined in *The Industrial Safety Act, 1971*,

1973, c. 47

(ii) a project as defined in *The Construction Safety Act, 1973*, and

(iii) a mine and a plant as defined in Part IX of *The Mining Act*.

R.S.O. 1970, c. 274



Employee may refuse to work, etc.

2. Where an employee in a work place has reasonable cause to believe that a machine, device or thing is unsafe to use or operate because its use or operation is likely to endanger himself or another employee or a place in or about a work place is unsafe for him to work in, or the machine, device, thing or place is in contravention of *The Industrial Safety Act, 1971*, *The Construction Safety Act, 1973* or Part IX of *The Mining Act*, or any regulations thereunder, as the case may be, the employee may refuse to use or operate the machine, device or thing, or work in the place.

1971, c. 43

1973, c. 47

R.S.O. 1970, c. 274

Employee to report to employer

3.—(1) Where an employee in a work place refuses to use or operate a machine, device or thing or refuses to work in a place therein because he has reasonable cause to believe that the machine, device or thing is unsafe to use or operate because its use or operation is likely to endanger himself or another employee or the place is unsafe for him to work in, or the machine, device, thing or place is in contravention of *The Industrial Safety Act, 1971*, *The Construction Safety Act, 1973*, or Part IX of *The Mining Act* or any regulations thereunder, as the case may be, he shall forthwith report the circumstances of the matter to his employer or the person having control and direction over him who shall forthwith investigate the report in the presence of the employee and, if there is such, in the presence of either a health and safety representative, a committee member who represents employees, or a person authorized by the trade union that represents the employee.

Employee may continue to refuse to work, etc.

(2) Where the employer or the person having control and direction over the employee disputes the report or takes steps to make the machine, device, thing or place safe or comply with *The Industrial Safety Act, 1971*, *The Construction Safety Act, 1973*, or Part IX of *The Mining Act*, or any regulations thereunder, as the case may be, and the employee has reasonable cause to believe that the machine, device or thing is or continues to be unsafe to use or operate because its use or operation is likely to endanger himself or another employee or the place is or continues to be unsafe for him to work in or the machine, device, thing or place is or continues to be in contravention of *The Industrial Safety Act, 1971*, *The Construction Safety Act, 1973*, or Part IX of *The Mining Act*, or any regulations thereunder, as the case may be, he may continue to refuse to use or

Section 2. The section provides that an employee may refuse to work where he believes an unsafe condition exists.

Section 3. The section provides that, where an employee refuses to work, the employer must investigate the matter, and, where the employee refuses to return to work, an inspector or engineer must be called in to make a decision on the matter.

Section 4. The section empowers the Minister of Labour to order an employer to establish a joint health and safety committee in a work place, and provides for the composition and functions of a committee, its meetings and the time of employees spent thereon.

operate the machine, device or thing, or work in the place unless a collective agreement binding the employee expressly provides otherwise.

Investigation by inspector or engineer

(3) Where the employee continues to refuse to use or operate the machine, device or thing, or work in the place or having returned to work in compliance with the express provisions of a collective agreement binding the employee files a grievance concerning his right to continue to refuse to use or operate the machine, device or thing or work in the place, the employer or person having control and direction over the employee shall notify an appropriate inspector or an engineer, as the case may be, who shall investigate the matter in the presence of the employer or the person having control and direction over the employee, the employee and, if there is such, either a health and safety representative, a committee member who represents employees or a person authorized by the trade union that represents the employee.

Decision by inspector or engineer

(4) The inspector or engineer shall, following his investigation, make a decision whether the machine, device or thing is unsafe for the employee to use or operate or the place is unsafe for the employee to work in or the machine, device, thing or place is in contravention of *The Industrial Safety Act, 1971*, *The Construction Safety Act, 1973* or Part IX of *The Mining Act*, or any regulations thereunder, as the case may be.

1971, c. 43
1973, c. 47
R.S.O. 1970, c. 274

Minister may make order

4.—(1) The Minister may, by order in writing, require an employer to establish a joint health and safety committee or committees for a work place, or any part or parts thereof, and, in the order, may provide for the qualifications and the term of office of its members and its practice and procedures, and, from time to time, may give such directions as the Minister considers advisable concerning its functions.

What Minister shall consider

(2) In exercising the power conferred by subsection 1, the Minister shall consider,

(*a*) the nature of the work being done;

(*b*) the number of employees engaged in the work;

(*c*) the request of a group of the employees or the trade union or trade unions representing the employees in a work place;

(*d*) the frequency of injury in doing work of that nature in the industry of which the employer is a part;

(*e*) the existence of health and safety programs and procedures in the work place and the effectiveness thereof; and

(*f*) such other matters as the Minister considers advisable.

Composition of committee

(3) A committee shall consist of such number of persons as the Minister may prescribe, of whom half shall be employees who do not exercise managerial functions, to be selected by the employees they are to represent or, where there is a trade union or trade unions representing such employees, by the trade union or trade unions.

Powers of committee

(4) It is the function of a committee and it has power to,

(*a*) identify situations that may be a source of danger or hazard to employees;

(*b*) make recommendations to the employer and employees for the improvement of the health and safety of employees;

(*c*) recommend the establishment, maintenance and monitoring of programs, measures and procedures respecting the health and safety of employees;

(*d*) obtain information from the employer or other persons respecting,

(i) the identification of potential or existing hazards of materials, processes or equipment, and

(ii) health and safety experience and work practices and standards in the same or similar industries;

(*e*) maintain and keep minutes and records of its proceedings and it shall make the same available for examination and review by an inspector or engineer.

Posting of names and work locations

(5) An employer shall post and keep posted the names and work locations of the committee members in a conspicuous place or places where they are most likely to come to the attention of his employees.

Meetings of committee

(6) A committee shall meet during working hours at least four times a year and not more often than once a

SECTION 5. The Minister is empowered to order the selection of a health and safety representative in a work place who is entitled to inspect the work place, to be notified of accidents and to investigate them.

month and may be required to meet by order of the Minister.

Entitlement to time from work

(7) A member of a committee is entitled to such time from his work as is necessary to attend meetings of the committee without deduction of the time so spent from his work time and without deduction from his wages for time so spent.



Minister may make order

5.—(1) The Minister may, by order in writing, require an employer to cause the selection of one or more health and safety representatives for a work place, or any part or parts thereof, from among the employees employed at the work place who do not exercise managerial functions, and may from time to time give such directions as the Minister considers advisable concerning the functions of a health and safety representative.



Selection of representative

(2) The selection of a health and safety representative shall be made by the employees who do not exercise managerial functions whom the health and safety representative is to represent or, where there is a trade union or trade unions representing such employees, by the trade union or trade unions.

Powers of representative

(3) A health and safety representative may inspect the work place not more often than once a month or at such intervals as an inspector or engineer, as the case may be, may direct, and it is the duty of the employer and the employees to afford the health and safety representative such information and assistance as may be required for the purpose of carrying out the inspection.



Idem

(4) A health and safety representative has power to identify situations that may be a source of danger or hazard to employees and to make recommendations or report his findings to the employer, employees, a trade union or trade unions representing employees and a joint health and safety committee, if any, for the improvement of the health and safety of workers.



Notice of accident, inspection by representative

(5) Where an accident occurs at a work place that causes serious injury or death to a person therein or thereat, a notice in writing of the occurrence shall be given forthwith by the employer to the health and safety representative, if any, and, the health and safety representative may inspect the place where the accident occurred and any machine, device or thing, and report his findings to the committee, if any, but nothing in this subsection affects the

duties and responsibilities of an employer under sections 33, 34 and 35 of *The Industrial Safety Act, 1971*, sections 25 and 30 of *The Construction Safety Act, 1973*, and sections 612 and 613 of *The Mining Act*.

1971, c. 43
1973, c. 47
R.S.O. 1970, c. 274

Entitlement to time from work

(6) A health and safety representative is entitled to take such time from his work as is necessary to carry out his duties under subsections 3 and 5 without deduction of time so spent from his work time and without deduction from his wages for time so spent.

Opportunity to accompany inspector or engineer

6.—(1) Where an inspector exercises the powers conferred upon him under clause *a* of subsection 1 of section 8 of *The Industrial Safety Act, 1971*, or clause *a* of subsection 1 of section 6 of *The Construction Safety Act, 1973*, or an engineer exercises the powers conferred upon him under clause *b* of subsection 1 of section 618 of *The Mining Act*, the employer shall afford to a health and safety representative, if any, an employee authorized by a trade union or trade unions, if any, to represent it or them and, where there is no trade union an employee authorized by the employees to represent them, the opportunity to accompany the inspector or engineer during his physical inspection of a work place, or any part or parts thereof.

Consultation with employees

(2) Where there is no health and safety representative or authorized representative, the inspector or engineer shall endeavour to consult during his physical inspection with a reasonable number of the employees concerning matters of health and safety at their work.

Time deemed to be work time

(3) The time spent by a health and safety representative or an authorized representative in accompanying an inspector or engineer during his physical inspection shall be deemed to be work time.

Posting of copies of direction, order or report

7. Where an inspector gives a direction in writing under section 10 of *The Industrial Safety Act, 1971* or an order in writing under section 11 of *The Construction Safety Act, 1973* or an engineer gives a notice in writing under clause *a* of subsection 1 of section 618 of *The Mining Act* or an inspector or engineer issues a report of his inspection to an employer, the employer shall forthwith cause a copy or copies thereof to be posted in a conspicuous place or places where it is most likely to come to the attention of the employees and shall furnish a copy of such direction, order, notice or report to the health and safety representative and the committee, if any, and the inspector or engineer shall cause a copy thereof to be furnished to a person who has complained of a contravention of *The Industrial Safety Act, 1971*,

SECTION 6. An employer is required to permit a health and safety representative to accompany an inspector or engineer during his inspection of a work place.

SECTION 7. The section requires that directions or reports of an inspector or engineer be communicated to the health and safety representative and the committee, if any, and to an employee who has complained of a contravention of an Act mentioned in the section or any regulations thereunder.

SECTION 8. The Workmen's Compensation Board is required to send upon request an annual summary of accident statistics to an employer who is then required to furnish copies to the trade union and the committee, or to post the summary.

SECTION 9. The section provides that no employee shall be dismissed, etc., because he has acted in compliance with this Act.

The Ontario Labour Relations Board may inquire into a complaint alleging a contravention of the section and the Board may exercise its powers under certain sections of *The Labour Relations Act*, including the power to order reinstatement. Alternatively, the employee may have the matter dealt with by arbitration under a collective agreement.

The Construction Safety Act, 1973 or Part IX of *The Mining Act*, or any regulations thereunder. 1973, c. 47 R.S.O. 1970, c. 274

Summary to be furnished

8.—(1) The Workmen's Compensation Board, upon the request of an employee or a trade union, shall send to the appropriate employer an annual summary of data relating to the employer in respect of the number of work accident fatalities, the number of lost workday cases, the number of lost workdays, the number of non-fatal cases that required medical aid without lost workdays, the number of occupational illnesses, the number of occupational injuries, and such other data as the Board may consider necessary or advisable.

Delivery and posting of copy of summary

(2) Upon receipt of the annual summary, the employer shall forthwith deliver a copy thereof to the committee, if any, and to the trade union or trade unions representing the employee, and, where there is no trade union, shall cause a copy thereof to be posted in a conspicuous place or places where it is most likely to come to the attention of the employees.

No discipline, dismissal, etc., by employer

9.—(1) No employer or person acting on behalf of an employer shall,

(*a*) dismiss or threaten to dismiss an employee;

(*b*) discipline or suspend or threaten to discipline or suspend an employee;

(*c*) impose any penalty upon an employee; or

(*d*) intimidate or coerce an employee,

because the employee has acted in compliance with this Act.

Employee may file complaint or have matter arbitrated

(2) Where an employee complains that an employer has contravened subsection 1, the employee may either have the matter dealt with by final and binding settlement by arbitration under a collective agreement, if any, or file a complaint with the Ontario Labour Relations Board in which case any regulations governing the practice and procedure of the Board apply *mutatis mutandis* to the complaint.

Inquiry into complaint

R.S.O. 1970, c. 232

(3) The Ontario Labour Relations Board may inquire into any complaint filed under subsection 2, and section 79 of *The Labour Relations Act*, except subsection 4*a*, applies *mutatis mutandis* as if such section, except subsection 4*a*, were enacted in and forms part of this Act.

Application of R.S.O. 1970, c. 232

(4) On an inquiry by the Ontario Labour Relations Board into a complaint filed under subsection 2, sections 91, 92, 95, 97 and 98 of *The Labour Relations Act* apply *mutatis mutandis*.

Burden of proof

(5) On an inquiry by the Ontario Labour Relations Board into a complaint filed under subsection 2, the burden of proof that an employer or person acting on behalf of an employer did not act contrary to subsection 1 lies upon the employer or person acting on behalf of the employer.

Offence

10. Every employer who fails to comply with an order made under subsection 1 of section 4 or subsection 1 of section 5 or fails to comply with a provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than $10,000, or to imprisonment for a term of not more than twelve months, or to both.

Act prevails

11. Where there is a conflict between the provisions of this Act and the provisions of any general or special Act, the provisions of this Act prevail.

Assignment and transfer to Minister R.S.O. 1970, c. 274

12.—(1) The administration of Part IX of *The Mining Act*, except section 616, is assigned and transferred to the Minister of Labour and a reference in that Part, except in section 616, to the Minister, the Deputy Minister or the Ministry shall be deemed to be a reference to the Minister of Labour, the Deputy Minister of Labour or the Ministry of Labour, as the case may be.

Reference to Deputy Minister

(2) The reference in subsection 3 of section 632 of *The Mining Act* to the Deputy Minister shall be deemed to be a reference to the Deputy Minister of Labour.

Assignment and transfer to Minister R.S.O. 1970, c. 438

13. The administration of *The Silicosis Act* is assigned and transferred to the Minister of Labour and a reference in that Act and the regulations thereunder to the Director or to the Minister shall be deemed to be a reference to the Chief of the Industrial Chest Disease Service of the Ministry of Labour or to the Minister of Labour, as the case may be.

Commencement

14.—(1) This Act, except section 8, comes into force on the day it receives Royal Assent.

Idem

(2) Section 8 comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

15. This Act may be cited as *The Employees' Health and Safety Act, 1976*.

SECTION 10. The section creates an offence and provides a penalty therefor.

SECTION 11. Self-explanatory.

SECTION 12. The administration of Part IX of *The Mining Act*, which deals with the operation of mines, is transferred from the Minister of Natural Resources to the Minister of Labour.

SECTION 13. The administration of *The Silicosis Act* is transferred from the Minister of Health to the Minister of Labour.

An Act respecting
Employees' Health and Safety

1st Reading

October 26th, 1976

2nd Reading

November 18th, 1976

3rd Reading

THE HON. B. STEPHENSON
Minister of Labour

(Reprinted as amended by the Committee of the Whole House)

1976

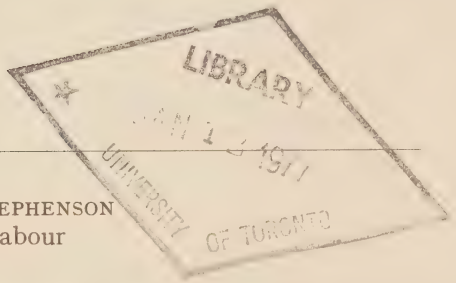
Ontario. Legislative Assembly

BILL 139

3RD SESSION, 30TH LEGISLATURE, ONTARIO
25 ELIZABETH II, 1976

Government Publications

An Act respecting Employees' Health and Safety



THE HON. B. STEPHENSON
Minister of Labour

TORONTO
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BILL 139 **1976**

An Act respecting Employees' Health and Safety

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpretation

(*a*) "committee" means a joint health and safety committee;

(*b*) "employer" includes a manager as defined in Part IX of *The Mining Act*; R.S.O. 1970, c. 274

(*c*) "engineer" means an engineer as defined in Part IX of *The Mining Act*;

(*d*) "health and safety representative" means a health and safety representative selected by employees he represents or by the trade union or trade unions representing such employees;

(*e*) "inspector" means an inspector as defined in *The Industrial Safety Act, 1971*, or *The Construction Safety Act, 1973*, as the case may be; 1971, c. 43 1973, c. 47

(*f*) "Minister" means the Minister of Labour;

(*g*) "trade union" means a trade union as defined in *The Labour Relations Act* that has the status of exclusive bargaining agent under that Act in respect of any bargaining unit or units in any work place or any part or parts thereof; R.S.O. 1970, c. 232

(*h*) "work place" means,

(i) an industrial establishment as defined in *The Industrial Safety Act, 1971*,

1973, c. 47

(ii) a project as defined in *The Construction Safety Act, 1973*, and

R.S.O. 1970, c. 274

(iii) a mine and a plant as defined in Part IX of *The Mining Act*.

Employee may refuse to work, etc.

2. Where an employee in a work place has reasonable cause to believe that a machine, device or thing is unsafe to use or operate because its use or operation is likely to endanger himself or another employee or a place in or about a work place is unsafe for him to work in, or the machine, device, thing or place is in contravention of *The Industrial Safety Act, 1971*, *The Construction Safety Act, 1973* or Part IX of *The Mining Act*, or any regulations thereunder, as the case may be, the employee may refuse to use or operate the machine, device or thing, or work in the place.

1971, c. 43

1973, c. 47

R.S.O. 1970, c. 274

Employee to report to employer

3.—(1) Where an employee in a work place refuses to use or operate a machine, device or thing or refuses to work in a place therein because he has reasonable cause to believe that the machine, device or thing is unsafe to use or operate because its use or operation is likely to endanger himself or another employee or the place is unsafe for him to work in, or the machine, device, thing or place is in contravention of *The Industrial Safety Act, 1971*, *The Construction Safety Act, 1973*, or Part IX of *The Mining Act* or any regulations thereunder, as the case may be, he shall forthwith report the circumstances of the matter to his employer or the person having control and direction over him who shall forthwith investigate the report in the presence of the employee and, if there is such, in the presence of either a health and safety representative, a committee member who represents employees, or a person authorized by the trade union that represents the employee.

Employee may continue to refuse to work, etc.

(2) Where the employer or the person having control and direction over the employee disputes the report or takes steps to make the machine, device, thing or place safe or comply with *The Industrial Safety Act, 1971*, *The Construction Safety Act, 1973*, or Part IX of *The Mining Act*, or any regulations thereunder, as the case may be, and the employee has reasonable cause to believe that the machine, device or thing is or continues to be unsafe to use or operate because its use or operation is likely to endanger himself or another employee or the place is or continues to be unsafe for him to work in or the machine, device, thing or place is or continues to be in contravention of *The Industrial Safety Act, 1971*, *The Construction Safety Act, 1973*, or Part IX of *The Mining Act*, or any regulations thereunder, as the case may be, he may continue to refuse to use or

operate the machine, device or thing, or work in the place unless a collective agreement binding the employee expressly provides otherwise.

Investigation by inspector or engineer

(3) Where the employee continues to refuse to use or operate the machine, device or thing, or work in the place or having returned to work in compliance with the express provisions of a collective agreement binding the employee files a grievance concerning his right to continue to refuse to use or operate the machine, device or thing or work in the place, the employer or person having control and direction over the employee shall notify an appropriate inspector or an engineer, as the case may be, who shall investigate the matter in the presence of the employer or the person having control and direction over the employee, the employee and, if there is such, either a health and safety representative, a committee member who represents employees or a person authorized by the trade union that represents the employee.

Decision by inspector or engineer

(4) The inspector or engineer shall, following his investigation, make a decision whether the machine, device or thing is unsafe for the employee to use or operate or the place is unsafe for the employee to work in or the machine, device, thing or place is in contravention of *The Industrial Safety Act, 1971*, *The Construction Safety Act, 1973* or Part IX of *The Mining Act*, or any regulations thereunder, as the case may be.

1971, c. 43
1973, c. 47
R.S.O. 1970, c. 274

Minister may make order

4.—(1) The Minister may, by order in writing, require an employer to establish a joint health and safety committee or committees for a work place, or any part or parts thereof, and, in the order, may provide for the qualifications and the term of office of its members and its practice and procedures, and, from time to time, may give such directions as the Minister considers advisable concerning its functions.

What Minister shall consider

(2) In exercising the power conferred by subsection 1, the Minister shall consider,

(*a*) the nature of the work being done;

(*b*) the number of employees engaged in the work;

(*c*) the request of a group of the employees or the trade union or trade unions representing the employees in a work place;

(*d*) the frequency of injury in doing work of that nature in the industry of which the employer is a part;

(*e*) the existence of health and safety programs and procedures in the work place and the effectiveness thereof; and

(*f*) such other matters as the Minister considers advisable.

Composition of committee

(3) A committee shall consist of such number of persons as the Minister may prescribe, of whom half shall be employees who do not exercise managerial functions, to be selected by the employees they are to represent or, where there is a trade union or trade unions representing such employees, by the trade union or trade unions.

Powers of committee

(4) It is the function of a committee and it has power to,

(*a*) identify situations that may be a source of danger or hazard to employees;

(*b*) make recommendations to the employer and employees for the improvement of the health and safety of employees;

(*c*) recommend the establishment, maintenance and monitoring of programs, measures and procedures respecting the health and safety of employees;

(*d*) obtain information from the employer or other persons respecting,

(i) the identification of potential or existing hazards of materials, processes or equipment, and

(ii) health and safety experience and work practices and standards in the same or similar industries;

(*e*) maintain and keep minutes and records of its proceedings and it shall make the same available for examination and review by an inspector or engineer.

Posting of names and work locations

(5) An employer shall post and keep posted the names and work locations of the committee members in a conspicuous place or places where they are most likely to come to the attention of his employees.

Meetings of committee

(6) A committee shall meet during working hours at least four times a year and not more often than once a

month and may be required to meet by order of the Minister.

Entitlement to time from work

(7) A member of a committee is entitled to such time from his work as is necessary to attend meetings of the committee without deduction of the time so spent from his work time and without deduction from his wages for time so spent.

Minister may make order

5.—(1) The Minister may, by order in writing, require an employer to cause the selection of one or more health and safety representatives for a work place, or any part or parts thereof, from among the employees employed at the work place who do not exercise managerial functions, and may from time to time give such directions as the Minister considers advisable concerning the functions of a health and safety representative.

Selection of representative

(2) The selection of a health and safety representative shall be made by the employees who do not exercise managerial functions whom the health and safety representative is to represent or, where there is a trade union or trade unions representing such employees, by the trade union or trade unions.

Powers of representative

(3) A health and safety representative may inspect the work place not more often than once a month or at such intervals as an inspector or engineer, as the case may be, may direct, and it is the duty of the employer and the employees to afford the health and safety representative such information and assistance as may be required for the purpose of carrying out the inspection.

Idem

(4) A health and safety representative has power to identify situations that may be a source of danger or hazard to employees and to make recommendations or report his findings to the employer, employees, a trade union or trade unions representing employees and a joint health and safety committee, if any, for the improvement of the health and safety of workers.

Notice of accident, inspection by representative

(5) Where an accident occurs at a work place that causes serious injury or death to a person therein or thereat, a notice in writing of the occurrence shall be given forthwith by the employer to the health and safety representative, if any, and, the health and safety representative may inspect the place where the accident occurred and any machine, device or thing, and report his findings to the committee, if any, but nothing in this subsection affects the

duties and responsibilities of an employer under sections 33, 34 and 35 of *The Industrial Safety Act, 1971*, sections 25 and 30 of *The Construction Safety Act, 1973*, and sections 612 and 613 of *The Mining Act*.

1971, c. 43
1973, c. 47
R.S.O. 1970, c. 274

Entitlement to time from work

(6) A health and safety representative is entitled to take such time from his work as is necessary to carry out his duties under subsections 3 and 5 without deduction of time so spent from his work time and without deduction from his wages for time so spent.

Opportunity to accompany inspector or engineer

6.—(1) Where an inspector exercises the powers conferred upon him under clause *a* of subsection 1 of section 8 of *The Industrial Safety Act, 1971*, or clause *a* of subsection 1 of section 6 of *The Construction Safety Act, 1973*, or an engineer exercises the powers conferred upon him under clause *b* of subsection 1 of section 618 of *The Mining Act*, the employer shall afford to a health and safety representative, if any, an employee authorized by a trade union or trade unions, if any, to represent it or them and, where there is no trade union an employee authorized by the employees to represent them, the opportunity to accompany the inspector or engineer during his physical inspection of a work place, or any part or parts thereof.

Consultation with employees

(2) Where there is no health and safety representative or authorized representative, the inspector or engineer shall endeavour to consult during his physical inspection with a reasonable number of the employees concerning matters of health and safety at their work.

Time deemed to be work time

(3) The time spent by a health and safety representative or an authorized representative in accompanying an inspector or engineer during his physical inspection shall be deemed to be work time.

Posting of copies of direction, order or report

7. Where an inspector gives a direction in writing under section 10 of *The Industrial Safety Act, 1971* or an order in writing under section 11 of *The Construction Safety Act, 1973* or an engineer gives a notice in writing under clause *a* of subsection 1 of section 618 of *The Mining Act* or an inspector or engineer issues a report of his inspection to an employer, the employer shall forthwith cause a copy or copies thereof to be posted in a conspicuous place or places where it is most likely to come to the attention of the employees and shall furnish a copy of such direction, order, notice or report to the health and safety representative and the committee, if any, and the inspector or engineer shall cause a copy thereof to be furnished to a person who has complained of a contravention of *The Industrial Safety Act, 1971*,

The Construction Safety Act, 1973 or Part IX of *The Mining Act*, or any regulations thereunder. 1973, c. 47 R.S.O. 1970, c. 274

Summary to be furnished

8.—(1) The Workmen's Compensation Board, upon the request of an employee or a trade union, shall send to the appropriate employer an annual summary of data relating to the employer in respect of the number of work accident fatalities, the number of lost workday cases, the number of lost workdays, the number of non-fatal cases that required medical aid without lost workdays, the number of occupational illnesses, the number of occupational injuries, and such other data as the Board may consider necessary or advisable.

Delivery and posting of copy of summary

(2) Upon receipt of the annual summary, the employer shall forthwith deliver a copy thereof to the committee, if any, and to the trade union or trade unions representing the employee, and, where there is no trade union, shall cause a copy thereof to be posted in a conspicuous place or places where it is most likely to come to the attention of the employees.

No discipline, dismissal, etc., by employer

9.—(1) No employer or person acting on behalf of an employer shall,

(*a*) dismiss or threaten to dismiss an employee;

(*b*) discipline or suspend or threaten to discipline or suspend an employee;

(*c*) impose any penalty upon an employee; or

(*d*) intimidate or coerce an employee,

because the employee has acted in compliance with this Act.

Employee may file complaint or have matter arbitrated

(2) Where an employee complains that an employer has contravened subsection 1, the employee may either have the matter dealt with by final and binding settlement by arbitration under a collective agreement, if any, or file a complaint with the Ontario Labour Relations Board in which case any regulations governing the practice and procedure of the Board apply *mutatis mutandis* to the complaint.

Inquiry into complaint

(3) The Ontario Labour Relations Board may inquire into any complaint filed under subsection 2, and section 79 of *The Labour Relations Act*, except subsection 4*a*, applies *mutatis mutandis* as if such section, except subsection 4*a*, were enacted in and forms part of this Act. R.S.O. 1970, c. 232

Application of R.S.O. 1970, c. 232

(4) On an inquiry by the Ontario Labour Relations Board into a complaint filed under subsection 2, sections 91, 92, 95, 97 and 98 of *The Labour Relations Act* apply *mutatis mutandis*.

Burden of proof

(5) On an inquiry by the Ontario Labour Relations Board into a complaint filed under subsection 2, the burden of proof that an employer or person acting on behalf of an employer did not act contrary to subsection 1 lies upon the employer or person acting on behalf of the employer.

Offence

10. Every employer who fails to comply with an order made under subsection 1 of section 4 or subsection 1 of section 5 or fails to comply with a provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than $10,000, or to imprisonment for a term of not more than twelve months, or to both.

Act prevails

11. Where there is a conflict between the provisions of this Act and the provisions of any general or special Act, the provisions of this Act prevail.

Assignment and transfer to Minister R.S.O. 1970, c. 274

12.—(1) The administration of Part IX of *The Mining Act*, except section 616, is assigned and transferred to the Minister of Labour and a reference in that Part, except in section 616, to the Minister, the Deputy Minister or the Ministry shall be deemed to be a reference to the Minister of Labour, the Deputy Minister of Labour or the Ministry of Labour, as the case may be.

Reference to Deputy Minister

(2) The reference in subsection 3 of section 632 of *The Mining Act* to the Deputy Minister shall be deemed to be a reference to the Deputy Minister of Labour.

Assignment and transfer to Minister R.S.O. 1970, c. 438

13. The administration of *The Silicosis Act* is assigned and transferred to the Minister of Labour and a reference in that Act and the regulations thereunder to the Director or to the Minister shall be deemed to be a reference to the Chief of the Industrial Chest Disease Service of the Ministry of Labour or to the Minister of Labour, as the case may be.

Commencement

14.—(1) This Act, except section 8, comes into force on the day it receives Royal Assent.

Idem

(2) Section 8 comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

15. This Act may be cited as *The Employees' Health and Safety Act, 1976*.

An Act respecting
Employees' Health and Safety

7387

1st Reading

October 26th, 1976

2nd Reading

November 18th, 1976

3rd Reading

December 13th, 1976

THE HON. B. STEPHENSON
Minister of Labour

1976

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